



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**DÁIL ÉIREANN**

TUAIRISC OIFIGIÚIL—*Neamhcheartaithe*  
(OFFICIAL REPORT—*Unrevised*)

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# DÁIL ÉIREANN

*Déardaoin, 25 Aibreán 2013*

*Thursday, 25 April 2013*

Chuaigh an Ceann Comhairle i gceannas ar 10.30 a.m.

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*Paidir.*  
***Prayer.***

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## **Leaders' Questions**

**Deputy Micheál Martin:** There is no doubt but that the cost of mortgages represents an extraordinary burden on thousands of families, many of whom see no light at the end of the tunnel. Some 96,000 households are in mortgage arrears for more than three months. The personal insolvency arrangements, in terms of the resolution of the issue of household debt, give complete control to the banks. To add to all of this misery and people's genuine anxiety, the State owned banks, Allied Irish Bank and the Educational Building Society, have decided to increase their variable mortgage interest rates by 0.4%. This is a devastating blow to many mortgage holders. The cost of this increase on a mortgage of €300,000 will be approximately €800 per annum, which is a savage increase for many and will cripple family budgets. This represents a cynical profiteering ethos within these institutions which, in terms of their particular agenda, are making sacrificial lambs of variable interest rate mortgage holders. This is a sneaky rise in advance of an anticipated European Central Bank cut next week.

Many are asking questions such as, "Is anybody going to do anything about it?" and "Is the Government indifferent to the plight of those mortgage holders who will suffer significantly as a result of this hammer blow announcement yesterday by AIB, the EBS and Haven?" The 2011 Central Bank report on variable interest rate mortgage pricing in Ireland states:

It appears that some lenders are charging higher variable rates to compensate for the losses they are making on their tracker loans. The risk with such a strategy is that it may be counterproductive and continue to exert upward pressure on arrears.

There is no doubt but that this increase will add to the number of families in arrears. When one takes into account the property tax and other charges, the situation is looking impossible for many families. This increase will lead to more families in mortgage arrears.

Will the Government intervene in this matter? Will it meet the banks to ask them to reverse this savage increase in variable interest rate mortgages?

**The Tánaiste:** The Government has already intervened to address the issue of mortgage arrears, which is one of the biggest problems facing many householders. In many cases, those in mortgage arrears bought homes at the height of the property bubble. The Deputy will recall that there was a property bubble during the lifetime of the Government in which he served, the result of which is that many are now stuck with high mortgages which they are finding difficult to pay. To address this problem, the Government has put in place the personal insolvency legislation which reduces to three years the period of time for personal insolvency and a range of non-judicial personal insolvency settlement methods. That system came into operation at the beginning of 2013. Some 8,000 cases of arrears have since been addressed by the putting in place of various settlements. However, there is a lot more to be done. The Government continues to encourage the financial institutions to speed up the process and reach settlements with people in mortgage arrears in order that they can get on with their lives and have certainty about where they are in terms of their mortgage difficulties. There is no doubt but that the announcement by AIB and the EBS that they propose to increase their standard variable interest rate mortgage is bad news for mortgage holders. However, the Deputy will be aware that is a commercial decision made by the two institutions.

**Deputy Micheál Martin:** The State owns AIB and the EBS and I asked the Tánaiste if the Government would intervene to have this rate increase reversed. The Keane report was published two years ago. However, nothing has happened during those two years in terms of the many sensible recommendations made in it. The mortgage interest subsidy was abolished. The bottom line is that families are facing an average increase of €800 per annum. I put it to the Tánaiste that this is unsustainable. I agree with the Central Bank that this will push many people on variable interest rate mortgages into arrears, thereby increasing the overall number in arrears. It demands Government intervention. It will damage families and cripple the economy.

Everybody has talked about the domestic economy not getting off the floor during the past two years. Everybody accepts that the domestic economy needs some stimulus, some investment. If €800 is taken out of many families' annual household budget, there is not a chance that the domestic economy will go anywhere in the next 12 months. This is a wider issue. It is extraordinarily difficult for the families concerned but it has repercussions and implications for the broader domestic economy. Two years ago when the banks refused to pass on an ECB cut the Government made great play of hauling in the banks-----

**An Ceann Comhairle:** A question, please, Deputy.

**Deputy Micheál Martin:** -----but it seems that was just all optics. The Government is not even saying now that it will talk to them about this savage increase, which represents cynical profiteering and, in my view, is not in the interests of the shareholder ultimately because it will damage the economy. The fundamental question that needs to be asked is whether is it about just getting the banks sorted or the economy sorted. It seems mortgage holders are at the end of the queue and there is complete indifference to their plight given the scale of the increase that will be taken out their weekly, monthly and annual household budgets. There is need to intervene in this case on behalf of the families and the wider economy as well.

**The Tánaiste:** As I said, any announcement of an increase in mortgages is bad news for mortgage holders, about that there is no doubt or arguing, but it is important we stick to the factual situation. The Deputy said twice that the average increase is €800 a year but that is not the case. The average standard variable rate mortgage in the AIB is €128,000 which means that the increase will be €24 a month. It is bad news for the householders concerned but that does

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not amount to €800 a year. The average standard variable rate mortgage in the EBS is €102,000 which will mean an increase of €17 per month. Again is it bad news for the householders concerned but it does not amount to €800 a year. It is important that the Deputy sticks to the factual position.

**Deputy Micheál Martin:** I am dealing with the facts.

**A Deputy:** Your arithmetic is every bit as bad as when you were in government.

**The Tánaiste:** Deputy Martin was also wrong when he stated that the Government did not act on the Keane report. It did act on that report. That is why we introduced the personal insolvency legislation.

**Deputy Timmy Dooley:** With the banks in control.

**Deputy Micheál Martin:** Split mortgages.

**The Tánaiste:** That is why the personal insolvency service has been established. That is why a range of measures has been advanced to help people who are in mortgage distress. Our objective is to aim to get settlement of the mortgage arrears difficulties people have. We have now put in place the architecture under which that can be done. Since the beginning of this year 8,000 have been settled.

**Deputy Micheál Martin:** They have not been settled.

**The Tánaiste:** That needs to be speeded up.

**Deputy Dara Calleary:** The Tánaiste should check the facts himself.

**The Tánaiste:** We are in constant contact with the banks to encourage them-----

**Deputy Dara Calleary:** Encourage them?

**The Tánaiste:** -----and drive them forward to get the settlements made.

**Deputy Micheál Martin:** Did the Government know this increase was going to be made if it is in constant contact with the banks? It must have.

**The Tánaiste:** The objective here is that we have to get to a point where people can get their mortgage difficulties settled and get on with their lives.

**Deputy Timmy Dooley:** And this is going to help them.

**Deputy Pádraig Mac Lochlainn:** Tens of thousands of homeowners woke up this morning to learn of yet another interest rate hike this time from AIB and the EBS. It is a sneaky rise when the ECB is likely to cut interest rates next week. It is even more galling for homeowners when they followed the proceedings yesterday where Richie Boucher was awarded a remuneration package of €843,000. Where is the Labour Party in all of this? A few years ago the policy of the Tánaiste's party was that the cap for bankers' pay should be €250,000 in line with the then Minister for Finance's income. A number of his backbenchers made a big stand about that this week and confronted this issue vigorously. It seemed at one point that he was going to make a stand once and for all on these issues but then, interestingly, yesterday the Minister of State, Deputy Brian Hayes, who is seated behind the Tánaiste, confirmed to all of us that this was not

the Minister, Deputy Noonan's decision, Fine Gael's decision but was a Government decision. Can the Tánaiste confirm that he signed off on that decision at the Economic Management Council in Cabinet? Was the Labour Party in full agreement with this decision? How can the Tánaiste justify the extraordinary concern for those at the top of the banking system like Richie Boucher who was party to the crisis we face-----

**An Ceann Comhairle:** I ask the Deputy to avoid using people's names.

**Deputy Pádraig Mac Lochlainn:** -----when one compares that to the lack of concern for the Croke Park issue?

**The Tánaiste:** I do not agree at all with the top levels of pay in the banks. I think they are far too much.

**Deputy Brian Stanley:** Why did the Tánaiste not vote against them then?

**The Tánaiste:** They have to be brought under control. When the Minister of State, Deputy Brian Hayes, referred yesterday to a Government decision, that Government decision is to support and to seek the implementation of the report that has come from Mercers on pay in the banking system. The Government has commissioned an independent analysis of pay scales and pension packages in the banks. It has recommended that there should be reductions across the board of between 6% and 10%. Our view is, and mine certainly is, that the highest level of reduction needs to come from those who are on the highest levels of pay. It is not about any one individual; it is right across the banking system. We have put in place a cap on pay. We have banned the payment of bonuses. We are hugely conscious as well that we live less than an hour's flight time from the biggest financial centre in Europe and that is why we have worked at European Union Presidency level to put in place a restriction on bank bonuses across the European system, which I believe will help in controlling bankers' pay in this country as well.

Let us be very clear about it. The Government is clear that higher pay levels in the banking system need to come down. We commissioned a study on that, which we have received. We support it and we are awaiting the response of the banks to it. I hope and expect that they will respond positively to that report.

**Deputy Pádraig Mac Lochlainn:** The personal insolvency legislation is being enacted and rolled out as we speak. A reply to a parliamentary question received by my colleague, Deputy Pearse Doherty, last night confirmed that it is expected that 19,000 people will engage in that service. Many of them are people who believed what they heard in this Chamber, from so-called expert economists and from people with vested interests across the banking sector. That is who created this crisis. Richie Boucher was up to his neck in all of that.

**An Ceann Comhairle:** Will the Deputy please refrain from referring to individuals?

**Deputy Pádraig Mac Lochlainn:** Okay. The banker who received €850,000 yesterday was up to his neck in all of that. That is the reality. People are sick to their stomach that every time we have to deal with these issues there is some buyer in the way. When will there be leadership?

I and others sat through 15 or 16 hours of deliberation on Committee Stage and Report Stage amendments to the Personal Insolvency Bill and every time we raised the issue of there being no veto for the banks we were shot down. We understand the banks lobbied heavily to

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have control over that. What has happened in all of this? Where are the changes people were promised? Where is the hope that the Tánaiste and the Taoiseach, Deputy Enda Kenny, gave in the lead up to the last election campaign? Can the Tánaiste give a definite response today as to whether the Labour Party backed that? Why did the Tánaiste not intervene? Why did he not honour the promise he made last November that there would be no more pay over €500,000?

**The Tánaiste:** Sinn Féin, as always, is interested in scoring the political point-----

**A Deputy:** The Tánaiste is not so bad at that himself.

**Deputy Brian Stanley:** We are just trying to get an answer.

**The Tánaiste:** -----rather than dealing with the problem. Let us come back to the problem. I have answered the Deputy's question about bankers' pay. We are dealing with that.

**Deputy Dessie Ellis:** It is only 6% to 10% - €80,000.

**The Tánaiste:** We have asked each bank to report to the Minister for Finance by the end of April. That issue is in hand and we do not need any encouragement from Sinn Féin on it. We have made clear from the beginning of the lifetime of this Government that our objective was to enable people to continue to live in their own homes. Many households and families who have big mortgages that they cannot afford to pay must resolve that issue with the financial institutions concerned. We have put in place an architecture to enable householders and mortgage holders to do that effectively. It includes the radical change in the personal insolvency process, enacted by this House and brought in by this Government, which reduces the period of time for which people are considered personally insolvent to three years. That is a radical change. Second, we have put in place a non-judicial settlement arrangement so that people who are already in mortgage distress do not have to incur high legal costs, the cost of going to court and all of that. They can settle their mortgage problems reasonably with their financial institutions.

Since the beginning of this year 8,000 people who had been in mortgage distress have concluded such settlements with their financial institutions under the new arrangements. We want to see more of that because we estimate that there are approximately 100,000 households in mortgage distress at one level or another. These households need to be able to conclude an arrangement with their banks so that they can get on with their lives. The arrangements are in place to do that. The Government will keep a close watch on how that progresses. Our position is that we are on the side of those householders who cannot pay because of either job losses or business and financial difficulties and we want them to settle this with their banks so that they can move on with the rest of their lives. Progress is being made. The emphasis is on making sure we resolve the problem for householders in mortgage distress. I am glad that so far this year 8,000 have managed to achieve settlements. We want to see more of this and I encourage the banks and financial institutions to do more of it, to do it more quickly and to enable people to get on with their lives.

**Deputy John Halligan:** The results of several surveys released in recent weeks strongly indicate that the Irish consumer is still paying a premium for groceries compared with consumers in other EU countries. Supermarket chains across the country have refused to disclose their profit margins. The rumour that Tesco dubs this country "Treasure Island" is well known. Although families are struggling to cope with the downturn, major supermarkets are pushing prices even higher than the boom time rates. A survey by the Consumers' Association of Ireland found that the price of 16 out of 19 popular and essential grocery items had increased by

between 12% and 32% since 2011, against the background of a 1.7% inflation rate. Almost all of the products cost more than they did at the height of the boom, costing the average family an extra €870 a year. There are also strong indications of widespread price matching among these chains. They are extracting colossal profits from this country. Is it not time they gave something back?

Combat Poverty, when it was in existence, Social Justice Ireland and the Society of St. Vincent De Paul have used the word “profound” when talking about food deprivation and food poverty. Many of these supermarket chains have no compassion whatsoever when they hear of people suffering from food deprivation. They have no compunction about increasing their profits. I was in a house last week with a mother and four children. The mother was ill and the eldest daughter, who is 14, was making dinner. I was saddened and upset to see that the dinner consisted of beans and chips. That is wrong. It was their Sunday dinner. They are struggling to make food last until they receive their social welfare payments on Tuesday or Wednesday. That is unacceptable and it is wrong when one sees the profits the supermarket chains make.

**Deputy Finian McGrath:** Hear, hear.

**Deputy John Halligan:** Will the Tánaiste investigate the possibility of holding talks with the major retail chains to introduce a price freeze on household staples until the economy has turned around? The Minister for Communications, Energy and Natural Resources, Deputy Rabbitte, was able to do it in the 1990s with a price freeze on drink. Surely we are capable of meeting those chains and asking them to consider doing this. Following talks with governments, major supermarket chains in several EU countries have introduced price freezes. We should bring those chains in and ask them to do the same here. Otherwise we should introduce price freezes on essential goods such as bread, milk, butter and baby food.

**Deputy Finian McGrath:** There is a good proposal. The Tánaiste should put that on his parsnips.

**The Tánaiste:** I am aware that the Consumers’ Association of Ireland compared 19 branded products in 2011 and 2013 and found there was a 12.6% increase in the cost of the basket surveyed. For the consumer price index, the Central Statistics Office surveys more than 50,000 prices taken on 632 item headings. That shows that for food and non-alcoholic beverages, prices have fallen by 6.3% since 2008. The most recent CSO figures show an increase of 1.6% for the year ending March 2013. I understand this is explained by an increase in certain commodity prices, some of which were affected by weather and energy costs.

The programme for Government contains a specific commitment to enact legislation to regulate certain restrictive anti-competitive practices in the grocery goods sector. The Government intends to give effect to this commitment by including an enabling provision in the consumer and competition Bill, which will also merge the National Consumer Agency and the Competition Authority, update and reform competition law on foot of a review of the operation and implementation of the Companies Act 2002, and give effect to the recommendations of the advisory group on mergers. Work on the drafting of the consumer and competition Bill is advancing and the Bill is included in the A list of the Government’s current legislative programme, so we expect it to be published in this session. In addition, staffing for enforcement in competition is being strengthened by the recruitment of some new personnel.

**Deputy John Halligan:** I have no doubt we are in the grip of a nutritional recession, trig-

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gered by food poverty. I appeal to the Tánaiste to deal with supermarket chains that refuse to reveal the huge profits that everybody knows they make. Everyone else in the country has been asked to help the economy. The people who are suffering from food deprivation have had to take cuts, yet the big supermarket chains increase their profits year after year. Surely it is not unreasonable to ask the Tánaiste to do as governments have done in other countries, while this recession is still destroying the quality of people's lives, and at the very least ask the supermarket chains to freeze the prices of essential food items.

*11 o'clock*

The Tánaiste did not answer all of my questions. Will he consider asking the Tesco's, Aldi's and Lidl's to freeze the prices for two years on the 19 essential food items such as bread, milk, butter and baby food? They will still make astronomical profits in that time. We should be asking them to make their contribution to help out the economy, as everyone else has. If they do not bring in this freeze, we, as legislators, have the ability to bring in a price freeze on essential items and that we should do.

**Deputy Finian McGrath:** Hear, hear.

**The Tánaiste:** As I said, the Government is taking the legislative route on this issue. We can have all the discussions we want on this matter. I agree with the Deputy that the supermarkets should not be increasing the prices of essential goods. We gave a commitment in the programme for Government that we would deal with anti-competitive practices in the grocery goods sector. We will deliver on that in the consumer and competition Bill, which will be published this session. There will be an opportunity for Members to participate in the debate on the Bill when it is presented. That action is being taken to protect the consumer against overpricing, profiteering and anti-competitive practices in the grocery goods sector.

Supermarkets and supermarket chains are aware of the Government's intention in this regard. The message should be clear to them on their pricing policies. I would expect them to act accordingly.

### **Order of Business**

**The Tánaiste:** It is proposed to take No. 2, Companies Bill 2012 - Second Stage (resumed).

**An Ceann Comhairle:** There are no proposals to be put to the House. I call on Deputy Martin.

**Deputy Micheál Martin:** From this morning's *Irish Independent*, it seems the protection of maternal life Bill is circulating around the Government.

**Deputy Aodhán Ó Ríordáin:** After 20 years.

**Deputy Micheál Martin:** This would seem to vindicate *The Sunday Times* report by Sarah McInerney from last Sunday which when I put it to the Taoiseach earlier this week he said he had no idea in the world from where it came. It now seems this Bill has been circulating in the Department of Health. I note and accept that the Ministers of State, Deputies Kathleen Lynch

and White, are furious that it was suggested they had been consulted on this Bill. Will the Minister confirm this is the Bill that is circulating?

**Deputy Pat Rabbitte:** Not even Deputy Martin is that naïve.

**Deputy Micheál Martin:** What is Deputy Rabbitte suggesting?

**Deputy Mattie McGrath:** The Minister should get back from Dublin Castle to the real world.

**Deputy Pat Rabbitte:** I see the new pope has taken on the mantle of Francis of Assisi. Deputy Martin can no longer go around pretending he is Francis of Assisi.

**Deputy Micheál Martin:** Will the Tánaiste confirm that this is the Bill which the Taoiseach referred to last week on the Order of Business? He said to me last week that the heads of the Bill in question would be circulated this week. This suggested it was well into its preparation, if not prepared. Is there work under way to produce a new or different Bill? Will he update and clarify the position on this Bill? Can we expect the heads of the Bill next week?

**The Tánaiste:** I am delighted to see Deputy Martin has taken up reading. It might encourage him to improve the quality of what he reads.

**A Deputy:** He was a great one for not reading reports when he was a Minister.

**Deputy Micheál Martin:** Some of the Tánaiste's Ministers of State need a bit of help as well. It seems the Minister for Health is sharing nothing with anyone.

**Deputy Dara Calleary:** What about the stuff the Tánaiste was reading about 20 years ago?

**An Ceann Comhairle:** Thank you, Deputies.

**The Tánaiste:** The heads of the Bill or the memorandum on it have not yet been circulated. I expect the Minister for Health, Deputy Reilly, to bring the heads of the Bill to the Government shortly. The Government intends to act after 20 years of no action on this difficult issue. Everyone knows this, as well as the fact, the preparation and content of the legislation requires care and attention. I expect the heads of the Bill will be before the Government shortly and the legislation published thereafter.

**Deputy Pádraig Mac Lochlainn:** This morning the European Court of Justice found in favour of the case against the State taken by the former Waterford Crystal workers on the losses to their pensions. The court found that offering retirees half of what they are entitled to is not going to wash. In response to this, what legislation does the Government intend to introduce to give proper protection to workers when they are made redundant, and in the Waterford Crystal case, abandoned?

**The Tánaiste:** I am aware of this morning's ruling by the European Court of Justice on the Waterford Crystal pension schemes. The case follows a reference from the High Court to the European Court of Justice for its opinion on several questions concerning European law in this area. We have not yet had an opportunity to study the full judgment of the European Court of Justice. The ruling will now be the subject of a full hearing by the High Court in the coming months. Until then, the matter remains *sub judice* and we cannot comment further on it.

**Deputy Kevin Humphreys:** I welcome the European Court of Justice decision on the Wa-

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terford Crystal pensioners. I raised this issue with Deputy O'Dea on the need for legislation on defined benefits. Since raising this matter, several people have informed me they are taking redundancy settlements to protect their pensions' futures. At the time when I raised this matter, the Taoiseach said it was an extremely complicated area and it will be some time before legislation comes to the House. This is a matter of urgency and I know there is great pressure on drafting legislation.

**An Ceann Comhairle:** Thank you, Deputy.

**Deputy Kevin Humphreys:** Can we give this matter priority?

**The Tánaiste:** This case was at the European Court of Justice because the High Court referred it there for its opinion. The High Court must now hear the case. It is still under the High Court and is, therefore, *sub judice*. That said, we will of course be studying the judgment and seek advice on it.

**Deputy Patrick Nulty:** The Tánaiste refers many times to having reversed the minimum wage cut introduced by Fianna Fáil. However, he will be aware that Ireland is one of only three EU countries, Estonia and Greece being the others, not to have increased its minimum wage to boost domestic demand.

**An Ceann Comhairle:** What legislation is the Deputy referring to?

**Deputy Patrick Nulty:** Has the Government any intention to increase the minimum wage, even by 40 cent, to bring it into line with 2007 levels?

**An Ceann Comhairle:** Is there promised legislation? I understand there is no promised legislation.

**Deputy Patrick Nulty:** Increasing the minimum wage to match inflation requires legislation.

**An Ceann Comhairle:** No, we are only dealing with promised legislation. I am told there is no promised legislation. I suggest the Deputy puts down a parliamentary question on the matter.

**Deputy Mattie McGrath:** On the Central Bank (Supervision and Enforcement) Bill 2011, I will not mention names today but we know the bankers who are getting huge pay. I raise this issue with the Tánaiste because of the actions of the banks. The Central Bank of Ireland does not have a code of practice by which it can restrain what can only be described as hit men who are going out and intimidating people, be they home owners or business owners, on a daily basis. There is no-----

**An Ceann Comhairle:** Which Bill is that?

**Deputy Mattie McGrath:** It is the Central Bank (Supervision and Enforcement) Bill 2011. Hit men are going out and threatening people and beating them up.

**An Ceann Comhairle:** We would want to be careful.

**The Tánaiste:** That Bill has already been published.

**An Ceann Comhairle:** It is published and the Deputy has a chance to contribute to the

debate on it.

**Deputy Michael Healy-Rae:** That was a lengthy reply from the Tánaiste.

**An Ceann Comhairle:** It is published.

**Deputy Michael Healy-Rae:** Why is the Department of Education and Skills hiring a consultant to do a job that we pay the quango, the National Employment Rights Authority, NERA, to carry out?

**An Ceann Comhairle:** The Deputy should ask him after the Order of Business but not on the Order of Business.

**Deputy Michael Healy-Rae:** I ask this question under the Construction Contracts Bill.

**An Ceann Comhairle:** When is the Construction Contracts Bill due?

**Deputy Michael Healy-Rae:** I want to raise another issue, namely, the woefully inadequate response from the Department of Agriculture, Food and the Marine and the Government to the farmers' crisis in giving €1 million-----

**Deputy Mattie McGrath:** A bale of hay.

**An Ceann Comhairle:** I understand that is an issue, but it is not for the Order of Business.

**Deputy Michael Healy-Rae:** It is an issue of major importance and the Government should wake up to the crisis that the farmers are facing.

**An Ceann Comhairle:** Deputy, you are out of order.

**Deputy Michael Healy-Rae:** Farmers are under terrible pressure. They are under financial-----

**An Ceann Comhairle:** Deputy, please do not abuse the privilege. I call you on the understanding that you are inquiring about promised legislation so do not abuse the privilege.

**Deputy Michael Healy-Rae:** What are they going to do?

**An Ceann Comhairle:** Put down a parliamentary question. I told you to table a Topical Issue.

**Deputy Michael Healy-Rae:** I did exactly what you told me to do.

**An Ceann Comhairle:** I did not see it.

**A Deputy:** He must have sent it by text.

**Deputy Michael Healy-Rae:** The Government is doing nothing to help the farmers of Ireland.

**An Ceann Comhairle:** Deputy, the Order of Business is about promised legislation; it is not about issues.

*(Interruptions).*

**Deputy Michael Healy-Rae:** What is Deputy Deering being smart about? Has he any interest in the farmers of Ireland?

**Deputy Pat Deering:** I am sorry for ruffling the Deputy's feathers.

**Deputy Michael Healy-Rae:** He should have some manners when he is talking about the farmers of Ireland.

**The Tánaiste:** The Construction Contracts Bill has already been published.

Regarding the Minister for Education and Skills, the Minister has taken action to ensure that contractors working on school projects comply with standards regarding employment conditions and safety at work. I could understand the Deputy raising this issue if no action was being taken but raising it when the Minister for Education and Skills is taking action on it is surprising.

**Deputy Mattie McGrath:** What about the consultants?

**Deputy Michael Healy-Rae:** What about the fodder crisis? He would not give an answer.

**An Ceann Comhairle:** Deputy, eight other Members are offering and we have nine minutes remaining. I call Deputy Higgins.

**Deputy Ray Butler:** The Deputies should give us all a chance to speak.

**Deputy Joe Higgins:** First, will the Tánaiste say definitively that the maternal life protection Bill will have passed all Stages by the summer recess?

**An Ceann Comhairle:** The Tánaiste cannot give that answer on the Order of Business. The Deputy can ask that question some other way.

**Deputy Joe Higgins:** It is quite in order on the Order of Business.

Second, as the banks were announcing crippling increases in mortgage payments the Revenue Commissioners chairwoman, on the Tánaiste's behalf, was callously threatening to dip into the social welfare payments and wages of workers who object to his property tax, which is a tax too far. Will he amend the property tax to ensure that does not happen?

**An Ceann Comhairle:** Are there any proposals on amending the property tax? Is there promised legislation in this area, yes or no?

**The Tánaiste:** First, I have a long reply on the fodder crisis but I was not asked about it on Leaders' Questions.

**Deputy Micheál Martin:** I raised it-----

**The Tánaiste:** I appreciate that, Deputy Martin.

With regard to giving Deputy Higgins a commitment as to when legislation will be passed by the House, that is a matter for the House. The Government has made clear its intention with regard to bringing legislation before the Houses and there is no legislation promised on amending the property tax.

**Deputy Dessie Ellis:** The Minister, Deputy Hogan, has set up an expert group to oversee the problems of homes affected by pyrite. In recent months we had the report on pyrite resolution. We were told that process would be moved forward quickly and the Minister indicated at the time that legislation would be required to levy the industries concerned to raise the necessary funds. Will the Tánaiste indicate when that legislation will be forthcoming? Thousands of people are living in sub-standard housing. Serious health and safety issues arise regarding those and we must move quickly on this issue.

**The Tánaiste:** The pyrite levy Bill is due to be published this year.

**Deputy Ray Butler:** When will the Housing (Miscellaneous Provisions)(No. 1) Bill and the Housing (Miscellaneous Provisions)(No. 2) Bill to further strengthen the regulatory framework of social housing be brought forward? We saw the documentary shown the other night. Many counties, including County Meath, do not have ghost estates and housing waiting lists are very long. We have 7,000 to 8,000 people on housing waiting lists from as far back as 2007. I would like to see houses being bought or built.

**The Tánaiste:** The Housing (Miscellaneous Provisions) (No. 1) Bill is expected to be published this year. The Housing (Miscellaneous Provisions) (No. 2) Bill is expected next year.

**Deputy James Bannon:** Many towns in the north midlands are at a serious disadvantage because of the high cost of energy. When can we expect the common arrangements for gas Bill to come before the House to extend gas spurs from the main gas line to those towns? Also, the planning Bill to implement the recommendations of the Mahon tribunal report is long overdue.

**The Tánaiste:** There is no date yet for the publication of the common arrangements for gas Bill, which is to amend the Electricity Regulation Act 1999 and allow arrangements be put in place to facilitate an all-island gas market. It is not possible to indicate at this stage when the planning Bill, which is to provide for the implementation of the planning recommendations of the report of the Mahon tribunal and other matters, will be published.

**Deputy Barry Cowen:** When will the Government bring forward legislation to give effect to its intention to increase the number of councillors in Dublin by upwards of 60 or more?

**An Ceann Comhairle:** There is a local government Bill.

**The Tánaiste:** The Government is carrying out the most fundamental reform of local government since the late 19th century. That reform of local government is long overdue. The legislation to give effect to that is expected to be published this session.

**Deputy Barry Cowen:** Does that include the huge increase in Dublin?

**Deputy Brian Stanley:** I ask the Tánaiste about the water services Bill promised for this year. I understand there is a provision in that Bill to give the Energy Regulator the power to set the charges for water. The Government has agreed that water charges will bring in €500 million by 2015 in its programme with the troika. We have 1.3 million households and that works out at a flat charge of €385 per household.

**An Ceann Comhairle:** We can discuss that when the Bill is published.

**Deputy Brian Stanley:** As meters will not be installed, will the legislation reflect the fact that this will be a flat charge on households of on average €385? When will we see the legisla-

tion?

**An Ceann Comhairle:** The question as to when we will see the legislation is the only one in order. The Deputy can deal with the other part of the question some other way.

**The Tánaiste:** The legislation will be published this year. In the meantime, the Deputy should not presume what will be in it.

**Deputy Dara Calleary:** The Taoiseach has stated that he informed the Chief Justice that referendums will be held later this year and has asked for a judge to be assigned to the Referendum Commission. When will the relevant information to allow us prepare for those referendums be published?

If we are to have three referendums in the autumn, immediately following the recess, what opportunity will we have for debate? Will it be similar to previous occasions on which we had very little time to debate the issues? I understand the three referendums will deal with the patent court, the appeals court and the proposal to abolish the Seanad.

**The Tánaiste:** It has been indicated that the Government intends to hold a referendum on the Seanad later this year. No decision has been taken yet as to the number of referendums to be held on that occasion. I expect that issue will be addressed and decided in the near future.

**Deputy Thomas P. Broughan:** With regard to the proposal on free GP care in the programme for Government, when can we expect legislation? Second, is it intended to introduce any additional funding for home help services? Given that we have all seen horrendous instances of home help hours being slashed for vulnerable older people - the Tánaiste will remember that when he was on this side of the House he would have been jumping up and down about home care services and would have been getting very agitated-----

**An Ceann Comhairle:** I thank the Deputy. We will get the information for him on the Bill.

**Deputy Thomas P. Broughan:** -----and excited about the fact that the then Fianna Fáil-Green Party Government was imposing savage cuts on home help services. It is the Tánaiste's watch now and this is going on. People are suffering.

**An Ceann Comhairle:** That is not for the Order of Business.

**Deputy Thomas P. Broughan:** I just want the Tánaiste to know this. I can give him chapter and verse.

**An Ceann Comhairle:** The Deputy could table a Topical Issue.

**Deputy Thomas P. Broughan:** This is not the type of policy that any Labour Party member would pursue.

**An Ceann Comhairle:** I want to allow one other Deputy to contribute, so I ask the Tánaiste to respond in regard to the Bill.

**The Tánaiste:** There are a number of health Bills. The consultative process on the health (amendment) (No. 2) Bill is under way and it is expected the Bill will be published this year. Further heads have been approved for the health (amendment) Bill and it is expected to be published this session. The Health (Provision of General Practitioner Services) Bill has already been enacted. A number of other pieces of legislation are expected either late this year or early

next year.

**Deputy Patrick O'Donovan:** I asked previously about the sale and pricing of alcohol Bill and the Tánaiste said progress on it was not as advanced as had been expected. Given that this Bill has implications for a huge number of rural pubs, when can we expect to see the heads finalised and the Bill come before the House?

**The Tánaiste:** Work is progressing on that Bill, but I do not have a date for its publication yet.

### **Message from Select Committee**

**An Ceann Comhairle:** The Select Sub-committee on Finance has completed its consideration of the Central Bank (Supervision and Enforcement) Bill 2011 and has made amendments thereto.

### **Topical Issue Matters**

**An Ceann Comhairle:** I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 27A and the name of the Member in each case: (1) Deputy Mattie McGrath - the impact of the public procurement policy on the school supply sector; (2) Deputy Eoghan Murphy - the need to ensure that there is a fair, transparent and modern enrolment process for primary schools; (3) Deputy Pádraig Mac Lochlainn - the proposed closure of Gaelcholáiste Chineál Eoghain, Buncrana, County Donegal; (4) Deputy John O'Mahony - the need to locate a passport office in the west of Ireland; (5) Deputy Joe Higgins - whether the Minister for Social Protection has new policy proposals consequent on her statement that Ireland has reached its limits of austerity; (6) Deputy Michelle Mulherin - special treatment services for cancer patients in County Mayo; (7) Deputy Joan Collins - the decision by the NCPE not to make pirfenidone available to patients with idiopathic pulmonary fibrosis; (8) Deputy Maureen O'Sullivan - the need to provide sufficient funding in humanitarian aid to Syria; (9) Deputy Thomas P. Broughan - the introduction of parking charges at Howth Harbour, Dublin; (10) Deputy Eamonn Maloney - the annual report of the Revenue Commissioners, 2012; (11) Deputy David Stanton - the need for further educational places in Midleton and Carrigtwohill, County Cork; (12) Deputy Derek Keating - the need for a review of measures to combat the availability of illegal drugs; (13) Deputy Barry Cowen - the delay in the construction of new accommodation for Scoil Bhríde, Edenderry, and Gaelscoil Eadon Doire, County Offaly; (14) Deputy Charlie McConalogue - the future of the A5 route linking Dublin and the north west; (15) Deputy Dessie Ellis - the need to provide young people in emergency accommodation with sufficient financial support in order to aid them in finding homes and moving on with education or employment; (16) Deputy Clare Daly - the implications of the public sector recruitment embargo on the closure of Fingal County Council libraries; (17) Deputy Richard Boyd Barrett - the need to make the lung fibrosis drug available for terminally ill patients; and (18) Deputy Aodhán Ó Ríordáin - the announcement by AIB of an increase in interest rates on

variable rate mortgages.

The matters raised by Deputies Aodhán Ó Ríordáin, Eoghan Murphy, Charlie McConalogue and Thomas P. Broughan have been selected for discussion.

### **Companies Bill 2012: Second Stage (Resumed)**

Question again proposed: “That the Bill be now read a Second Time.”

**Deputy James Bannon:** I welcome this Bill, whose intention is to make it easier for companies and people to set up businesses. It also provides solutions to the many difficulties currently encountered, such as the weakness and lack of vision evident in existing legislation. I would like to acknowledge the companies that are doing well and providing worthwhile employment in my home county for many people. I would like to see more companies come to the midlands and particularly to Longford and Westmeath.

Every day, businesses and companies are being driven out of business here due to the excess of bureaucracy and red tape and the failure of the previous Government to change things during its 20 years or so in office. The Bill before us today outlines a process that will help us move forward by cutting down on costs, waste and inefficiency. This will favour the development of businesses. The Bill is a common-sense revolution of company law that will help cut the cost of starting a company and will help make this country the best small country in which to do business. It deals with issues to do with the creation and development of jobs and also aims to create companies that are more focused on output, performance and a strong culture of service. The changes proposed in this Bill will give companies the ability to handle the daily challenges with less red tape and will make company law obligations easier to understand. This landmark course of action will bring significant benefits to businesses and companies of all types throughout the State.

The Government, since taking office, has had a clear and credible jobs plan, but it must be spread evenly throughout the country. Longford-Westmeath, although perfectly situated in the centre of the country, with equal access to east and west, is losing out on major international investment due to the state of its infrastructure, to the detriment of its economic development. There is a moral obligation on the State to ensure that the midlands area gets employment opportunities, just like the east and west coast and our cities. It is imperative that additional incentives and funding are put in place to encourage indigenous industry in the area.

This is important legislation and is necessary in order to increase employment opportunities in the business sector. It is the key to supporting and giving Irish companies a competitive advantage. It will also open up the way companies do business and make them more accountable.

We are fortunate that the Government has been able to assemble an economic team under the chairmanship of the Taoiseach. The team is flexible and highly committed to the development of a jobs economy. I understand that staff supporting this team work until ten or eleven at night without being asked, which demonstrates huge commitment. This level of commitment is important for the Government to succeed and it also demonstrates that morale among staff is very high. People co-operate and support each other as in a well-functioning family. We are

living in interesting and exciting times and this motivates people. I am aware that in the long term tensions and problems will occur unless we change and update company law to address issues and ensure that proper procedures are established.

A striking feature over the past 18 months or so has been the number of foreign companies establishing their European headquarters in Ireland. I found it a moving experience recently to visit Capitol Hill and be told that our new Government is getting things right and is moving in the right direction and that, as a result, more American companies will be seeking to invest in Ireland. That is a good news story. It drove the message home to me that it is now more important than ever for us as a nation to be able to create the climate and conditions necessary for investment and to improve on what we have, such as our 12.5% rate of corporation tax. We should ensure there will be no tax increases in selected areas so that there is a minimal impact on jobs.

In a modern economy it is important that the boundaries of company guidelines keep moving all the time. In recent years, for example, the Government has increasingly considered education in economic terms. It has put forward the idea that the primary purpose of education is to produce one of the community's most valuable economic assets - a competent, educated and adaptable workforce. To an increasing extent, school policy is being considered as a facet of economic policy. This was reflected in the most recent renaming of what used to be the Department of Education as the Department of Education and Skills. The same thing can be seen in the naming of the Department of Jobs, Enterprise and Innovation.

One of the primary features of company and economic policy is that it has wide and constantly changing boundaries. Indeed, the machinery of economic policy will be able to steer the economy towards jobs as a result of this change in company law. Economic freedom - the freedom to be able to buy, sell and employ - is the foundation of all freedom. This is particularly important for companies. To that end, this Bill cuts out the nonsense and allows businesses to use their energy and ingenuity to meet the needs of customers who will create prosperity. When companies and markets are allowed to work properly, they benefit everyone. Too much regulation destroys freedom and efficiency, just as too much red tape controls and squeezes companies. This has harmful effects on employment. The cost of starting a company will be cut considerably as a result of this reform of company law. By strengthening best practice in small business, we can show investors that Ireland is the best small country in which to do business. When this landmark Bill becomes law and other supports are put in place, people will be enthusiastic about setting up businesses. Many quality projects will be very useful as we grow our economy and create jobs.

At a time when the effectiveness of international development law is being more critically scrutinised, it is important that we move forward with 21st century company law. As I said earlier, it is encouraging that international companies have continued to develop and set up here in recent years, despite the regular problems with communications and broadband in this country. We need to deal with such problems on an ongoing basis. This legislation is a prerequisite to sustainable development for small businesses, which are contributing millions to the growth of the economy. It is about enabling companies to become what they wish to be. We are trying to strike a balance by taking away a great deal of expensive baggage and replacing it with measured pragmatism. The jobs and mortgage crisis is the greatest challenge facing our people because of the social misery it is causing. We cannot allow the emigration of mostly young and well-educated people to be a permanent feature of Irish life. If we are to stop it, we have to get the economy growing. The billions of euro pumped into the banks by the previous Government

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were mentioned on Leaders' Questions. If we had that money now, we could pump it into jobs.

We need to reform the scandalous upward-only rent review system and the penal rates regime, both of which are costing thousands of retail jobs throughout the country. One has to go no further than the midlands to see how businesses in our towns are being affected. We need to reform the upward-only rent review system that applies to commercial property by giving tenants the right to have commercial rents reviewed regardless of any upward-only or other review clause. A commitment to do so is in the programme for Government. It must be acted on before it is too late. The retail industry has lost thousands of jobs in the past five years. The maintenance of the upward-only rent review system will increase this number greatly. There is clear evidence in every part of the country - we witnessed it in the courts recently - that some landlords have no interest in reducing costs. There have been limited rent reductions of a few percentage points in recent years, at a time when sales have been decreasing by between 25% and 33%. We must take action in this area immediately. We cannot stand idly by and continue to allow what used to be one of Ireland's largest industries go further down the tubes.

I welcome the Minister of State with responsibility for small business, Deputy Perry, to the Chamber. I hope he is taking note of what I am saying. I ask him to examine what is happening in town centres across the country. As we welcome this Bill, we need to work hard to find solutions to these issues. We cannot ignore what has happened and is continuing to happen to our rural towns and villages. They are haunted by the substantial volume of ill-thought-out legislation that has been enacted. A hackney service needs to be provided in every small town and village in the country. As several Deputies have said, rural Ireland is dying on its feet. We urgently need local enterprises in our villages and small towns. By shopping locally, we can ensure local businesses thrive and local jobs are retained. It has never been more important to keep our shopping local. I have referred to this issue time and again in the House. We need to bring a new spirit to our rural towns and communities. In hard times, people need to stick together by looking out for their own and for one another. This means thinking about the community in which we live.

This Bill represents a new start. It sets out a series of simple procedural measures and landmark changes. It should improve company law in the best interests of the public. It will encourage entrepreneurs to explore new business ideas, invest and take risks. One of the functions of the Bill is to support new business by encouraging people to take the brave step of starting a new company. It will also encourage people to invest in existing businesses so that they grow. We have put actions and stimulus plans in place for the microbusiness sector. We have offered financial supports through the seed capital scheme to those who are starting their own businesses. Those who start their own companies and work full-time in them can claim back the income tax they paid for the previous six years in order to invest equity in their companies, as long as those companies are involved in a qualifying trade. The three-year corporate tax exemption scheme provides relief from corporation tax on the trading incomes and certain gains of new start-up companies in their first three years of trading.

Many of the schemes that help people to develop their businesses will be helped by elements of this legislation. The research and development tax credit, for example, is a valuable tax-based incentive that is designed to encourage investment in research and development by companies in Ireland. A 25% tax credit for qualifying research and development expenditure is available to companies that are engaged in qualifying research and development. The accelerated capital allowance scheme allows companies to write off 100% of the purchase value of qualifying energy-efficient equipment against their profits in the year of purchase. A person

who owns or manages a small limited company and who wants to explore a business opportunity can apply for an innovation voucher worth €5,000, which is a great deal of money these days. All of these incentives will encourage people to set up in business and this reform of the companies Bill favours the development of business going forward. We have to be positive and sell the advantages of this country abroad. I have said in the past we should be tapping into our ambassadors and other personnel working outside Ireland to try to keep at the top of the agenda that Ireland is open for business.

This is a ground-breaking Bill and, hopefully, it will meet expectations. As I said, Ireland is the best small country in which to do business and long may it remain so. There are a number of important changes in the Bill. It will mean that many of the 12,500 private companies limited by shares which are established every year will be able to incorporate more easily, resulting in average savings of €1,300 to €1,400 in professional fees in each case and leading to many improvements in the ease of doing business in Ireland by comparison to our competitors.

The Bill consolidates the existing 16 Companies Acts, which date from 1963 to 2012, into one Act and it also introduces a number of reforms which are designed to make it easier to operate a company in Ireland. Set out across 25 Parts to ease the accessibility of the law for each different company type, the Bill contains 1,429 sections and 17 Schedules. For private companies limited by shares, the Bill contains a number of significant reforms. It will now be possible for such a company to have only one director and there will no longer be a requirement to have a second director merely to comply with a requirement of the law. The company will be permitted to have a one-document constitution. Mr. Albert Reynolds, the former Taoiseach from my constituency, always said liked a one-page document.

**Deputy Tom Hayes:** The Deputy likes quoting him.

**Deputy John Browne:** A great man.

**Deputy James Bannon:** The requirement under the current law for every company to draft detailed articles of association will no longer apply. Instead, the Bill will contain provisions which will apply by default unless a company wishes to vary any of these provisions.

All in all, it is a very good Bill. It will accommodate the most common company type in Ireland, the private company limited by shares, which will now, for the first time in Irish company law, be placed at the centre of the legislation. All of the law which applies to this company type, which represents approximately 90% of all companies registered at the Companies Registration Office, will now be contained together in Parts 1 to 15 of the Bill. This law will be set out logically to follow the life-cycle of a company, starting with the provisions governing incorporation. The Bill is about cutting costs, waste and inefficiency, which will favour the development of business. As I said at the outset, it is a commonsense revolution and very important to us all going forward.

I hope the Minister will take note that we badly need jobs in the midlands, which is a region that is open for business. I was very disappointed when it was pointed out recently that the IDA brought no foreign investors to Longford in the past eight years. I would appreciate it if the Minister would look into this and see that this type of behaviour changes. Longford is a great place to work and any of the companies which operate there and have branches elsewhere claim that Longford is the supreme location for their staff and workforce.

**Deputy John Browne:** I welcome the opportunity to speak on the Bill. I am pleased that

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Deputy Bannon sees fit to recognise the talents of Mr. Albert Reynolds, the great former TD from Longford-Westmeath.

One would want to be here a long time to deal with all aspects of the Bill. It is 1,136 pages long and its organisation has been ongoing for the past 12 years. I understand the last time changes were brought about in this way was when Mr. Seán Lemass was Minister, which is a long time ago. Obviously, therefore, the companies legislation was due to be brought into the modern era in order to bring about change. We have had the reports and recommendations of the tribunals in recent years and I hope many of those recommendations are enshrined in the Bill.

The Bill is one thing and its implementation is another. How it will impact on companies for the future is very important. We have had many company failures in recent years and I wonder what the Bill will do for companies in trouble. For the fifth year in succession, there has been a rise in the number of company failures, with 1,684 having collapsed during 2012 according to figures compiled in Kavanagh Fennell's Insolvency Journal. A notable feature was the dramatic increase in corporate receiverships. If someone had said to me a couple of years ago that A-Wear, Greenstar or Lyrath Estate in Kilkenny would be going into receivership, we would all have been shocked. I wonder what the Bill will do for such companies into the future.

A growing number of companies turned to examinership last year, including Atlantic Homecare, Cappoquin Poultry and the Ritz-Carlton Hotel, which were some of the high profile applicants among 27 or 28 such applications. I believe examinership is a far better way to proceed than receivership. When a matter goes to the courts, for judges to make a decision on receivership is far too easy, whereas if a company is put into examinership, the company might be saved. We have seen situations where examiners were appointed and companies were able to trade back out of their situation with the support and help of the examinership. In a recent case, Mr. Bill Cullen's hotel in Kerry was in receivership, it was then put into examinership and the judge then decided he would put it back into receivership. It is quite obvious there are problems in this area. I feel examinership should be the way to proceed and receivership should be the last resort.

There are many reasons companies collapse. Deputy Bannon referred to some of these, including the high rates being charged by local authorities, upward-only rents, service charges, water charges and planning charges. When retailers decide to upgrade their stores and apply for planning permission, the planning application is straightaway sent to the Valuation Office in Dublin. It sends its officials to the store and, sure as hell, the size of the store and so on will be changed and the rates will go through the roof. Therefore, there is no incentive for people to develop, expand and upgrade their businesses because they must straightaway pay a rates increase.

There is also the question of exorbitant legal fees, which increased rather than reduced during the recession. Legal fees are huge and one must then face planning charges. Companies apply for permission to extend or expand and local authorities levy exorbitant planning charges on them. They will charge them for roads and water and levy community charges and every other possible charge to get money. This is an impediment to the creation of jobs. It is important that these areas are looked at also. I know the Minister of State has been working with small and medium-sized businesses up and down the country to see how they can be protected and saved, but all the charges mentioned are major impediments to companies, large and small, in surviving. The charges applied by local authorities to businesses are completely out of kilter

with what they can afford to pay. These charges were grand during the Celtic tiger era, but we still see the same charges being levied on businesses, even though they are put to the pin of their collar to survive. I have raised this matter a number of times with my local authority which has told me that it is reviewing the county development plan and that when it is completed, it might then be in a position to look at the issue of charges. For many businesses, waiting for the county development plan in every county to be reviewed and changed will take too long and they will go out of business in the meantime. The Minister of State should work with local authorities to substantially reduce these charges in line with the current position rather than what it was in 1996 and 1997 when major money was being made. It is not being made today.

The Bill is a step in the right direction and the Minister has put much time and thought into it. It was initiated when we were in government. As we initiated it, we cannot criticise it too much, but it has taken a long time to get to this stage. I often wonder why it took the best part of 12 years and about six Ministers to bring it to do so, given the personnel available in the Department. The last major tidying up exercise in company law was undertaken by the then Minister for Industry and Commerce, Jack Lynch, in 1963.

It is very important that the legislation is clear and accessible. The company law reform group, CLRG, has pointed out that company law reform has often been driven by the need to comply with EU directives and regulations. I am sure this issue has exercised the minds of many Ministers in recent years. The European Union makes regulations and directives that must be transposed into Irish law. Sometimes the regulations and directives issued from Brussels bear no resemblance to how companies operate in this country and are out of touch with what is happening in the real world. Their implementation certainly causes major problems for companies.

The company law reform group made a number of recommendations. The aim was to simplify the Companies Act, bring greater clarity and transparency to the companies code and increase its intelligibility to the businessperson. In making a proposal for simplification, the CLRG recommended an increased focus on the needs of the small private limited company. In this respect, it fully endorses the “think small first” approach favoured by the English company law review steering group. The three principles to be followed are that the law should be clear and accessible; that accuracy and certainty should not be sacrificed unduly in an attempt to make the law superficially more accessible; and that the legislation should be structured in such a way that the provisions that apply to small companies are easily identifiable.

Many small companies believe they were left out by this and previous Governments and that we seem hell-bent on looking after the larger companies coming into the country such as pharmaceutical companies. These companies create many jobs, which is good in itself, but many smaller companies believe they are not receiving the same service and support from the Government, the banks, legislators and other bodies that could be of major support to them. Deputy James Bannon spoke about IDA Ireland and Enterprise Ireland. In Wexford we believe Enterprise Ireland and IDA Ireland have not been very supportive or helpful during the years. There have been a few announcements in recent years, but we have not received our fair share of visits om the past 15 or 20 years. We certainly have not received our fair share of job announcements. We have heard today that Ebay will be locating outside Dublin in Drogheda. All of the major companies coming into the country seem to want to centre their operations in the cities - Limerick, Galway, Cork and Dublin. It seems it is very difficult to get them to set up in counties such as Wexford which has the necessary infrastructure - the port of Rosslare, as well as roads, sewerage and water facilities. For years IDA Ireland and Enterprise Ireland told

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us we did not have the necessary infrastructure, but now when we do have it, we are still not getting our fair share. It is important that some of the good companies, as we call them - pharmaceutical companies and the likes of Intel and Ebay - are not placed closed the cities but that IDA Ireland and Enterprise Ireland encourage them to locate in rural counties which can offer services and locations equally as good as those on offer in the cities.

I welcome the Bill, which is essential. The questions of how it will be implemented, the wherewithal to do so, the financial package to back it up and the staff that should be available through the different arms of government are very important. In general, the Bill is good in itself, but it will only be as good as the manner in which it is implemented and the support and help given to companies that want to stay in the country, expand and develop. Many of the roadblocks I mentioned need to be dealt with. I hope the Bill will go some way towards achieving this. However, I have my doubts about whether it will deal with some of the issues I have raised because all of the agencies of State, including the Department of the Environment, Community and Local Government, the local authorities, Enterprise Ireland, IDA Ireland and the EPA, are not overly helpful when it comes to supporting industry. It is very important that the Minister of State lead and drive and, in particular, takes up with the local authorities the issue of charges which is an impediment to companies setting up not only in my county but also in every other county.

**An Leas-Cheann Comhairle:** I call Deputy Brendan Ryan who I understand is sharing time with Deputy Tom Hayes.

**Deputy Brendan Ryan:** I welcome the opportunity to speak on the Bill and welcome its broad thrust. It is an administrative and housekeeping Bill rather than radical legislation aimed at improving our competitive position as a location for business investment. It is welcome that for the first time in the State's history the most common form of company, the private limited company, has been placed at the centre of company legislation and given primacy. There are numerous simplifications and benefits within the Bill which will aid the limited company in starting off and continuing in business. Basic measures such as single directorships and single document constitutions are simple changes but ones which will have a practical and positive impact on business start-ups.

I have dealt with numerous constituents in the past couple of years who have good business plans but are faced with masses of prohibitive red tape from the outset. The Bill goes a way towards reducing some of that red tape, which is welcome. There is an oft-quoted line from Cabinet members that Ireland should be the best small country in the world in which to do business.

*12 o'clock*

I support this aim. However, I wish to add that Ireland also needs to be the best small country in the world in which to be a worker. At the moment this is not the case. The implosion of the Irish economy for reasons we all know, has seen our live register figure climb to more than 440,000 people who are unemployed, underemployed or poorly employed. The live register figure is beginning to tick down and is now at 426,000. However, this needs to become a real trend and that trend needs to continue at a more rapid pace.

This Bill is geared towards streamlining company law in order to make it easier for companies to be established and to do business. I welcome any moves which will encourage companies to set up in Ireland - be they indigenous or foreign multinationals - and which will create

and sustain employment. I firmly believe there is only one way out of the economic situation and that is through job creation and retention. Job creation will reduce the burden on the Department of Social Protection, allowing the Minister, Deputy Burton, to further target supports at those who most need it. Job creation will help alleviate the mortgage arrears crisis, allowing families to service their mortgages and to put their household budgets back on track. Job creation will bring in employers' PRSI, employees' PRSI and income tax, all of which will improve the State's coffers. The Government has introduced and supported a range of job creation measures which are helping small, medium and large companies to create employment.

Budget 2013 contained measures to enable the delivery of supports for companies in need of credit. Scarce public resources were used to leverage funding from the private sector to provide credit for businesses. Measures include the seed and venture capital scheme, the development capital scheme, research and development tax credits and an increase in the lending targets of the two pillar banks for 2013. More recently, the Minister, Deputy Joan Burton has announced details of the new JobsPlus scheme which is focused on the long-term unemployed and provides a cash-flow benefit to businesses which hire jobseekers who have been on the live register for 12 months or more. In addition, the back to work allowance scheme, JobBridge, the launch of Intreo and the rolling out of the pathways to work strategy, are the practical measures being introduced by the Minister and the Government to help people rebound into the job market.

In difficult times and with limited resources, the Government has put in place a range of practical measures to aid businesses. The collective purpose of all these State support measures is to create jobs. They are not designed to make it easier for businesses to run shaky concerns, to deprioritise their commitments to State charges such as commercial rates or indeed practise poor or immoral corporate governance. The example this week of the remuneration levels for the chief executive officer of Ireland was a slap in the face to the Irish people and should not act as an example of how State-supported companies, be they banks or SMEs, should operate. I welcome this Bill. I hope it leads to an increase in good companies setting up and more jobs being created. It is one more step in the essential support for small business if we are to deal with the current crisis.

**Deputy Tom Hayes:** I welcome the opportunity to contribute to the debate on this important Bill. A change in company law has been under consideration since 2000. This Bill will allow for a company to be composed of one person. After many years of consultation and reports, the Bill is before the House for debate.

The Government has worked hard to create jobs and to encourage an atmosphere conducive to job creation. We need jobs to help economic recovery and also to provide work for the many young people leaving our colleges and to give hope to the many young people who have left our shores to look for work in other countries such as Australia, America and England.

Many rural communities in particular see the impact of emigration on their communities. I have seen at first hand the effects on small GAA clubs in rural areas which are unable to field a team because most of the senior hurlers have gone. I refer to the situation in south Tipperary whose senior hurling clubs were at one time winning the regional finals. Now those clubs have only one or two players on a subs bench. None of us can be proud of that situation which we must strive to change. This is one of the best countries in the world and we have much to be proud of. This Government wants Ireland to be the best country in the world in which to do business.

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This Bill will encourage individuals to set up in business. It is one piece of the jigsaw and many other aspects of business must be considered. For example, broadband is not satisfactory in certain areas of the country. I am frustrated with announcements about the introduction of broadband and the lack of information about the broadband service. The Government has given a clear commitment that broadband will be available. However, more needs to be done to bring broadband to all parts of the country as a means of helping business enterprises.

Business people are experiencing difficulties in dealing with the banks. I remind the banks of their responsibilities. The taxpayers of Ireland has bailed them out by throwing significant funding into the banks which, as a result, have a responsibility to help the country and its people to create jobs. The banks need to be more amenable and more accessible. They should provide alternatives when they turn down loans. They should be helping people. In the past, bank managers did not work with as many rules and regulations as is the case now. I agree that rules and regulations are very necessary but, in my view, local knowledge needs to be part of how a bank decides on a loan application.

I refer to the case where a bank turned down a very well-presented plan. I asked experts to look at the plan. I know that the individual in this case would certainly repay the loan. The banks need to be more reasonable in their dealings with people. We are living in a changing world. The old manufacturing jobs are no longer here; other countries such as China have taken us on. However, the IT sector is a whole new world as is the food processing sector. The farming sector is going through a very difficult time but there is a very significant market for Irish-produced food. The recent horsemeat in burgers controversy proved that this country has good standards in food production. We must chase the market for Irish food. Small companies and businesses may have the ideas but bureaucracy is killing many enterprises. I suggest the Minister should look to the food industry to provide jobs in rural areas.

I will mention a business in my constituency which is providing IT training in the town of Cashel and which has sourced jobs for those people. It is a very successful company whose approach we should model. The Minister for Education and Skills, Deputy Ruairí Quinn, and the Tánaiste, Deputy Eamon Gilmore, launched the project earlier this year and it is working successfully. The retraining that is available should be nurtured into the future.

As the Minister of State, Deputy John Perry, is in attendance, I must mention my constituency. There are a great number of unemployed people in south Tipperary. There is a fantastic facility in Cashel which was once occupied by Johnson & Johnson and now lies idle. I urge the Minister and Minister of State at the Department of Jobs, Enterprise and Innovation to help south Tipperary in its endeavours to get a buyer for the factory. There is a potential to create 600 to 700 jobs in Cashel and it is a project the Government should go after. It is not an advance factory; it is purpose-built to accommodate enterprises in the medical devices sector. It is constructed to the highest standards.

I welcome the fact that the Bill is before the House. I compliment the Ministers on its introduction and hope it gets through speedily. I am delighted at the all-party support there appears to be for the Bill, although there are changes that need to be made. All Members want to see small companies develop and expand and to see a removal of bureaucracy and red tape. The legislation will impact on many companies. Given that only 1% of companies registered are public limited companies, the legislation will cover and support a broad range of businesses. I thank the Leas-Cheann Comhairle for giving me the opportunity to speak.

**Deputy Mick Wallace:** The Bill represents a massive body of work and is to be welcomed.

I note that Part 5 of the Bill contains a codified version of the fiduciary duties of company directors, which require them to act in good faith, honestly, responsibly and with due care, skill and diligence, and to avoid conflicts of interest. Currently, directors are subject to these obligations through a combination of common law and statutory provisions. The principle effect of listing directors' duties in the Bill will be to act as a signpost to directors on the standards of conduct the law requires of them. Will the Minister consider expanding on the provisions by examining ways in which the information they contain could be widely disseminated to existing and new company directors to educate them fully on their responsibilities and, more broadly, promote a culture of corporate responsibility? The provision of a new pack setting out directors' duties could be issued by the Companies Registration Office to all directors on the incorporation of a company. It could alternatively be issued by the Office of the Director of Corporate Enforcement, which happens to have a clear text on directors' duties on its website. Those agencies could organise the distribution of a leaflet setting out the provisions of the relevant section of the Act to the registered offices of companies for the attention of all current directors.

Currently, the practice is that directors of companies with means available are advised of their duties by solicitors. However, many start-up companies do not have the means to provide such legal advice. There are also voluntary directors in the property management sector who are subject to additional requirements under the Multi-Unit Developments Act 2011 who may not have the means to seek legal advice on the duties owed by them. I would welcome the insertion in the Bill of a recognition of the general duty owed to employees and shareholders in addition to the primary duty owed to the company itself.

I welcome, broadly, the proposed reform of the examinership process. I note that in accordance with the recommendations of the Company Law Review Group, section 5(10) of the Bill will provide for small and medium enterprises to apply directly to their local circuit court for examinership where they satisfy two of the following conditions: fewer than 50 employees, a turnover of less than €8.8 million and a balance sheet not exceeding €4.4 million. It has been estimated that the new provision could cut the legal cost of examinership by up to 50%, making the process more accessible and affordable to small and medium enterprises, in contrast to the current requirement that all companies, regardless of size, apply to the commercial courts in Dublin with the attendant cost of doing so. Protection provided by the courts from creditors' actions for three months can sometimes give enough breathing space for a company to recover and survive its difficulties. Ultimately, examinership can save valuable jobs in small and medium-sized enterprises.

While the reform is very welcome, will the Minister consider separating and fast-tracking the enactment of the relevant provisions to ensure they commence as soon as possible? The Bill may be the largest tranche of legislation ever enacted in the State, with the result that it may not be passed until 2014. Commencement of its provisions may occur at an even later date. Currently, thousands of small and medium-sized enterprises are struggling and in distress and may not survive until 2014. They would benefit greatly from a lifeline in the form of three months' protection from the Circuit Court, which would allow them to restructure debts and trade out of difficulty. Realistically, it will be a year before this significant body of legislation is passed. One can imagine how many people will fall through the cracks in the next 12 months. I ask the Minister to consider bringing these provisions in a little sooner.

I welcome the removal of the audit requirement for voluntary organisations provided for

in section 121(4). It is a welcome reform which will reduce the administrative and financial burden on not-for-profit community development organisations. Many small management companies will also be exempted from the audit, which is welcome. The regime was overly bureaucratic previously.

I welcome the absence of the nebulous “place of business” concept in respect of unlimited companies from Part 21 of the Bill as it relates to external companies. This gives greater clarity to third parties dealing with such companies. They will now deal either with a branch of an external company which has a CRO number and a filed account or an unregistered company. However, I have concerns about the use of unlimited holding companies in corporate structures in Ireland and the use of offshore limited companies as shareholders within that structure. I am disappointed that these issues were not addressed in the Bill. I ask the Minister to clarify whether he attends to address these issues. One can start an unlimited company in Ireland and bring in shareholders who have limited liability. If the company is based offshore, it reduces the unlimited liability of the company that was established. It is a loophole the Government should examine. Most people assume, when dealing with an unlimited company, that there is no upper limit on the personal liability of its shareholders for the company’s debts if it were to become insolvent. Approximately 4,000 Irish companies are unlimited and, as a result, escape the stricter filing and disclosure companies to which private limited companies are subject.

The usual filing and disclosure requirements allow a creditor to apprise himself of a company’s solvency before trading with it. Many large corporate structures are, however, using unlimited liability companies with limited shareholder liability by ensuring that some or all of the shareholders are limited liability entities. They may also reorganise company structures to transfer trade to a limited liability company at a later date. While it is always open to the courts to look through the corporate character of unlimited companies to see for themselves if its members include limited companies - in other words, to lift the corporate veil to examine the underlying members - it can only be done via an expensive court application. This general principle was approved by the Supreme Court in the case of *Bray Travel Ltd*, but, as the High Court remarked recently in *Goode Concrete v. CRH plc* and others, this approach is not possible when the limited company is an offshore company. This happens where the subsidiary limited company of an Irish holding company with unlimited status is registered in a country outside the EU which has limited disclosure requirements. This includes the Isle of Man. I could name three of the more serious players in the development game in Dublin, with problems in the region of €2 billion, who were availing of the structure. The Acting Chairman would be less than impressed if I did. This Minister might indicate whether and how he intends to deal with such unacceptable situations and whether by additional legislation or discussion in a different forum. One possibility is to introduce legislation requiring all private unlimited companies to notify the Companies Registration Office, CRO, of any shareholder company that might limit its liability. The unlimited company could be required to update information every year when filing an annual return or any abridged financial information required. In this way, a creditor may check the CRO records of an unlimited company at the outset of contractual negotiations and is alerted to the fact that, although registered as unlimited, the company’s liability may be limited. Failure of an unlimited company to notify the CRO of any limited liability shareholder could result in the imposition of limited liability status on the company immediately or in respect of a particular transaction as the courts see fit, within the limits of reasonableness and proportionality.

I wish to discuss the thoughts of Ha-Joon Chang, a South Korean economist based in the University of Cambridge. He advocates a strong hands-on approach by government in dealing

with companies to ensure better long-term outcomes. My philosophy is that bureaucracy and red tape are negative for companies but good regulation is positive. A major problem in the business world, which is also a problem for government, is that many decisions are based on short-term thinking. There is not enough long-term planning or investment. The logic is that management and shareholders are not mobile and will not be around forever. They are more interested in turning a quick buck than the firm's long-term prospects. Ha-Joon Chang states:

The corporate sector is very important to any economy but allowing firms the maximum degree of freedom may not even be good for the firm themselves, let alone the national economy. In fact, not all regulations are bad for business. Sometimes, it is in the long-run interest of the business sector to restrict the freedom of individual firms so that they do not destroy the common pool of resources that all of them need, such as natural resources or the labour force. Regulations can also help businesses by making them do things that may be costly to them individually in the short-run but raise collective productivity in the long-run – such as the provision of worker training. In the end, what matters is not the quantity but the quality of business regulation.

By the end of the Second World War, GM was the biggest car-maker in the US and had become the biggest company in the country. It was perceived that what was good for GM, was good for the United States, and what was good for the United States was good for General Motors. The logic behind this argument seems difficult to dispute. In a capitalist economy, private sector companies play the central role in creating wealth, jobs and tax revenue [or a central role]. If they do well, the whole economy [benefits]. Especially when the enterprise in question is one of the largest and technologically most dynamic enterprises, like GM in the 1950s [and 1960s in America], its success or otherwise has significant effects on the rest of the economy – the supplier firms, the employees of those firms, the producers of the goods that the giant firm's employees may buy and so on. Therefore, how these giant firms do is particularly important for the prosperity of the national economy.

However, between the Great Depression and the 1970s, private business was viewed with suspicion [in most quarters] even in most capitalist economies. Businesses were seen as anti-social agents whose profit-seeking needed to be restrained for other, supposedly loftier, goals, such as justice, social harmony and protection of the weak. As a result, complicated and cumbersome systems of licensing were introduced in the belief that governments need to regulate which firms do what in the interest of wider society. Large firms were banned from entering those segments of the market populated by small farms, factories and retail shops, in order to preserve the traditional way of life and protect 'small men' against big business. Onerous labour regulations were introduced in the name of protecting worker rights. In many countries, consumer rights were extended to such a degree that it hurt business [in some way].

These regulations, pro-business commenters argued, not only harmed the large firms but made everyone else worse off by reducing the overall size of the pie to be shared out. By limiting the ability of firms to experiment with new ways of doing business and enter new areas, these regulations slowed down the growth of overall productivity. As a result, since the 1970s, countries from all around the world have come to accept that what is good for business is good for the national economy and have adopted a pro-business policy stance. This was at the heart of neoliberalism [but we have learned much since then].

In the summer of 2009, GM went bankrupt. Notwithstanding its well-known aver-

sion to state ownership, the US government took over the company and, after an extensive restructuring, launched it as a new entity. In the process, it spent a staggering \$57.6 billion of taxpayers' money. It may be argued that the rescue was in the American national interest. Letting a company of GM's size and inter-linkages collapse suddenly would have had huge negative ripple effects on jobs and demand, aggravating the financial crisis that was unfolding in the country at the time. The US government chose the lesser of the two evils, on behalf of the taxpayers. What was good for GM was still good for the United States.

But what went wrong? When faced with stiff competition from imports from Germany, Japan and then Korea from the 1960s, GM blamed 'dumping' and other unfair trade practices by its competitors and got the US government to impose import quotas on foreign, especially Japanese, cars and force open competitors' home markets. In the 1990s, when these measures proved insufficient to halt its decline, it had tried to make up for its failings in car-making by developing its financial arm, GMAC (General Motors Acceptance Corporation). GMAC moved beyond its traditional function of financing car purchases and started conducting financial transactions for their own sake – all leading to the \$57 billion bailout on the part of the taxpayers. Things would have been so much better, had GM been forced to invest in the technologies and the machines needed to build better cars, instead of lobbying for protection, buying up smaller competitors and turning itself into a financial company.

More importantly, all those actions that have enabled GM to get out of difficulties with the least effort have ultimately not been good for GM itself – unless you equate GM with its managers and a constantly changing group of shareholders. These managers drew absurdly high salaries by delivering higher profits by not investing for productivity growth while squeezing other weaker 'stakeholders' – their workers, supplier firms and the employees of those firms. They bought the acquiescence of shareholders by offering them dividends and share buybacks to such an extent that the company's future was jeopardized. The shareholders did not mind, and indeed many of them encouraged such practices, because most of them were floating shareholders who were not really concerned with the long-term future of the company because they could leave at a moment's notice. What is good for some stakeholders of a company, such as managers and short-term shareholders, may not be good for others, such as workers and suppliers. Ultimately, it also tells us that what is good for the company in the short run may not even be good for it in the long run.

Sometimes regulations help business by limiting the ability of firms to engage in activities that bring them greater profits in the short run but ultimately destroy the common resource that all business firms need. For example, regulating the intensity of fish farming may reduce the profits of individual fish farms but help the fish-farming industry as a whole by preserving the quality of water that all fish farms have to use. For another example, it may be in the interest of other individual firms to employ children and lower their wage bills. However, a widespread use of child labour will lower the quality of the labour force in the longer run by stunting the physical and mental development of children. In such a case, child labour regulations can actually benefit the entire business sector in the long term. For yet another example, individual banks may benefit from lending more aggressively. But when all of them do the same, they may all suffer in the end, as such lending behaviours may increase the chance of systematic collapse, as we have seen in the 2008 global financial crisis. Restricting what banks can do, then, may actually help them in the long run, even if it does not immediately benefit them.

It is not just that regulation can help firms by preventing them from undermining the basis of their long-term sustainability. Sometimes, regulations can help businesses by forcing firms to do things that may not be in their individual interests but raise their collective productivity in the long run. For example, firms often do not invest enough in training their workers. This is because they are worried about their workers being poached by other firms ‘free-riding’ on their training efforts. In such a situation, the government imposing a requirement for worker training on all firms could actually raise the quality of the labour force, thereby ultimately benefiting all firms. There are many regulations that are pro- rather than anti-business. Many regulations help preserve the common-pool resources that all firms share, while others help business by making firms do things that raise their collective productivity in the long term. Only when we recognise this will we be able to see that what matters is not the absolute amount of regulation but the aims and contents of those same regulations.

**Deputy Tony McLoughlin:** I welcome the opportunity to speak on the Companies Bill 2012 and will mention a number of elements of it which are important and relevant to the modern running of a company. For the first time in Irish company law, the most common company type in Ireland - the private company limited by shares - will be placed at the centre of the legislation. Since 1963, there have been 16 relevant Acts on company law. These need to be consolidated, and this is achieved in this Bill. The Bill is designed to make it easier to operate a company in Ireland and it is set out in 25 Parts to ease accessibility to the law for each company type. The Bill contains 1,429 sections and 17 Schedules and it will provide significant benefits to companies by reducing red tape and making company law easier to understand. All of us who have worked in or worked for companies long to see a reduction in red tape and this Bill will realise this ambition.

As some speakers have said, many companies are struggling currently. I have been approached by many companies in my constituency of Sligo-North Leitrim and have met many directors and workforces. These people have told me there are major difficulties, one of which is access to broadband, as mentioned by some of my colleagues. There are many black spots in the constituency I represent and that needs to be reviewed.

This Bill will provide significant benefits to companies of all types and it is part of the Government’s drive to make Ireland the best small country in the world in which to do business. I will point out some of the measures which will ease the burden and cost of regulation. Companies will be able to operate with one director and will not have to hold a physical annual general meeting. There will be a reduced burden of paperwork and there will no longer be a need for articles of association. For the first time companies will be able to engage in mergers and an audit extension can be extended to dormant companies.

It is clear to many of us that the small and medium-sized enterprise sector is suffering more than any other area from the current credit drought in the banking sector. We have spoken about the banks and their behaviour towards small companies over the past number of years. Unfortunately, banks are not behaving in the way they should, although they are being requested to do so. We see the controversies in the banking sector, and some people doing well out of it while some SMEs are struggling to survive.

Commercial rates are another cost. There will have to be a review of commercial rates, which should be based on profits. Many companies are closing due to commercial rates and the penalties involved. It is important that we review commercial rates because they are one of the

main worries for companies currently. We also talk about VAT and compliance with health, fire and employment regulations, which make it difficult for company managers to achieve a profit.

There are numerous regulations which reduce the time managers have to run their businesses. The Minister is to be commended on his initiative to tackle company law and to reduce the burden on company owners and managers by reducing red tape and regulations. It is estimated that 13,000 companies are established every year and they will see savings of more than €6 million, mostly in professional fees. Legal fees and transaction costs for businesses can be expected to fall under the new system, as the streamlined registration system should make it faster and easier for companies and their professional advisers to register charges. It is widely expected that the risks of lending to Irish companies will be greatly reduced, which will, in turn, marginally affect the cost of credit for businesses in the economy.

For the first time, private companies will be able to engage in mergers and divisions, whereas under the old law there was no facility for Irish private companies to merge. This will strengthen existing companies, which may see opportunities to join and combine resources, staff and expertise for their future advancement. Many sole traders asked their spouses or partners to join them as directors even though they may have had no interest in the business. The proposal to allow one director is sensible and practical and I commend the Minister on this change.

Many companies - for example, small management companies and community-based companies - end up causing citizens much unnecessary hassle and extra cost, but this Bill will benefit these people who require a company to administer their affairs but who do not want the hassle of undue regulation and red tape. Many Deputies work with community organisations which must form companies to release funding and they despair of all the paperwork, such as articles of association and various audits. This Bill will benefit many of these community groups. Some residents in housing estates also form their own companies to look after their estates. There will be benefits for them also.

There has been a terrific reaction to this Bill across many sectors. One company involved in company trading and advice said on its website that it is delighted with any legislation which makes it easier to do business in Ireland and abroad. I am delighted to support this Bill and commend the Minister on his work.

**Deputy Michael Healy-Rae:** I thank the Technical Group for giving me some of its speaking time. Nobody can accuse the Minister or his predecessors of rushing this legislation as it has been approximately 13 years in the making. The Bill is 1,300 pages long and costs €109. Nobody could say it was rushed or put together in a hurry.

I have received representations from accountants who have concerns about this Bill. All qualified accountants in Ireland are disappointed that the Bill does not include a clause giving protection to the term “accountant”, as was promised by successive Governments. In Ireland, the titles “doctor”, “dentist”, “solicitor”, etc., are protected so that only a person qualified and registered with a supervisory body can trade as such, but this is not the case for accountants. Anyone can set up an office and refer to himself or herself as an accountant. This is misleading to the public and anti-competitive, as all qualified accountants are required to be licensed and insured, whereas an unqualified accountant is not regulated but competes with qualified accountants for clients.

The various accountancy institutes have campaigned for this for some time and they have

sent a letter outlining their concerns to all the qualified accountants who sit in Dáil Éireann. I raise this matter on behalf of up to 40 qualified accountants in County Kerry who create much needed jobs and provide a respectable service. We are all very glad of good and proper accountants and accounting advice when we need it. County Kerry is blessed that it has very eminent and qualified accountants looking after its affairs. I would like to hear what the Minister of State and the Government have to say about that. The person who brought it to my attention is perfectly correct.

Since I was 17 or 18, I have been a small employer. I have run various types of businesses and experienced all of the associated red tape. It must be acknowledged that small companies and businesses are the backbone of the economy. Anything that can be done to make the running of a small company or business easier should be done by the Government.

Some days ago I heard a multinational retailer, which I will not name, boasting about how it would create 200 or 300 new jobs here. I have no doubt that it will, but in doing so it will probably cost small businesses 300, 400 or 500 jobs. There is nothing said about that. This relates to the challenges small businesses face daily in competing with multinationals. We all want competition and people to have a variety of goods.

We are always told that, for ethical reasons, we must declare everything. I may be deemed to have a vested interest when I speak about multinational shops because I am a small trader and have a small shop and run a small country post office. Of course, I defend my business, but I also defend every other person with a small shop. These small businesses are the backbone of the country and give much needed employment. There is nothing fancy or grand about it in that the shops about which I speak do not employ 200 or 300 people; they employ two or three. However, these employers are very important.

In recent years small businesspeople have been crippled with bureaucracy and red tape. People are blowing about how this Bill will be great. Members on the other side of the House are all clapping each other on the back. Does the Minister of State not see what is happening every day among small businesses? I will give him examples. HSE officials travel around in a motor car and employ under-age youngsters to try to entrap shopkeepers by getting them to sell cigarettes to them. Shopkeepers try to act within the law and we all want to see the law upheld - we do not want to see cigarettes sold to those who are under age - but it is wrong that there are Government agencies trying to entrap and criminalise people if an error is made. I can instance a case in which a shop made stools available for elderly people waiting for their shopping or assistance. A HSE official insisted that the stools had to be taken out of the shop. Can any Government tell me it is helping small businesses when it carries on like that?

Daily there are rafts of new Bills. The cost of compliance with legislation is enormous. In recent months it was dreamed up that it was a great idea that filling station owners should account daily, weekly and monthly for the amount of stock in their fuel tanks. This was deemed to be a way of combating the illegal sale of fuel, including laundered fuel. However, it placed a further burden on already struggling small businesses. One might believe it is very easy to keep a record of stocks in the manner prescribed, but it takes time and there is an expense. Somebody has to take on the job every day. It is anti-competitive and represents another burden on businesses.

The Government should do something imaginative. We must all send in audited returns. The cost of submitting audited returns every 12 months is significant for small businesses. What

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if the Government came up with an imaginative proposal such as requiring the submission, by small businesses with a turnover below a specified threshold, of an audited return only every two or three years? Would this not be positive? It could save a small business or company €4,000 or €5,000 per year. These are the imaginative steps the Government should be taking.

Receivership should be the very last option for small businesses. The best person to keep a business going is the business owner. There was recently a high profile receivership action in County Kerry in which a highly capable businessperson, whom I will not name, had their business taken from them. That was wrong. In general, every assistance should be given to a person to keep his or her door open and to allow him or her to try to save his or her business. Just as a farmer adores his or her land, a businessman who has been running and trading successfully, or struggling for many years, dearly wants to keep his door open, stay in charge of his own destiny and try to continue to create employment. Receivership should be the last option in all cases.

The Government made commitments and broke promises regarding upward-only rent reviews. I asked in the House on several occasions why the Government would not make public its correspondence on upward-only rent reviews and the renegeing on the promises it had made before the general election. I firmly believe the Government dropped the ball. Of course, high rents must be tackled. One need only go out onto the street to meet people who are paying rents that are too expensive. This issue should be tackled.

There is a raft of new charges on businesses, including increased water charges and refuse charges. The bills that come in every day are a burden; it is like an avalanche. They really find it hard and it does not look as if there is any light at the end of the tunnel for them.

It is very important to small businesses and companies that broadband be provided in all parts of the countryside. Now more than ever before, people are creating offices in their homes, if possible, in an effort to curtail costs. Broadband is essential in the running of any business.

The behaviour of the banks leaves an awful lot to be desired. Business owners who want to advance or improve would see a great difference if they were given a small amount of money. Despite the fact that they might have a great track record for many years, they are not receiving loans. Just because bank managers and bankers lent recklessly to those who would never be in a position to pay back what they owed, they are refusing to give loans to those whom I would call respectable businesspeople. The people about whom I am speaking are not fly-by-nights like those who during the boom were flying around the country in helicopters thinking they were gods but the backbone of Ireland in terms of the small businesses they run, some of which were started by their parents, grandparents and so on. They are also the unfortunate victims of bad banking practises. The banks need to start lending again to small companies if they are to remain viable and the economy is to recover. This is one of the most important issues on which the Government should be concentrating. I urge it to stop looking to the multinationals to invest here and create jobs and focus instead on protecting the people here who are creating employment.

I would like to speak about the level of unemployment in County Kerry which has been badly let down not alone by this Government but also by successive Governments, IDA Ireland and all of the other agencies charged with bringing investment and employment to all counties. The agencies are not concentrating on locating jobs in County Kerry. Enough is not being done in this regard. I have always been supportive of the local development companies and have had

many dealings during the years with the partnership companies. Lest anybody accuse me, as happened recently in a media report, of not declaring what might be perceived to be a vested interest in this regard, I am currently involved in a small business which is awaiting an adjudication on an application for funding. I support the work of the local development companies which, in the administration of European funds, always take a bottom up approach in nurturing and assisting businesses. They assist people who are creating jobs for themselves and, perhaps, one or two others, be it in the tourism or manufacturing sector. Many owe the success of their small businesses to the critical investment they received from Leader companies at a time when they desperately needed it. Great significance should be placed on back to work initiatives and so on. Any initiative which helps even one person to return to employment, even if it is only for a couple of days a week in the first instance, is welcome. Irish people want to work. They need a reason to get up in the morning and make a living for themselves. The Government needs to support them in that regard.

When it comes to the removal of red tape, enough is not being done by the Government. If I thought this legislation would help small businesses and keep people in employment, I would be supportive of it. However, enough is not being done in this regard by the Government. The Minister of State, Deputy Michael Ring, will know from his constituency work that many people are in distress. Owing to the refusal of banks to assist them and the level of red tape involved in terms of high insurance costs and so on, many have seen their life's work crumble before them. The cost of public liability insurance is out of control. Many are finding it difficult to get such insurance and those who have managed to get it are experiencing difficulties in meeting the cost of premiums which are ever increasing, not because they have made a claim but to cover the cost of claims made by others, which is unfair. I am approached on a daily and weekly basis by people who are finding it hard to keep going. These are the reasons for many of the company closures during the past five years, in particular. The number of vacant premises in towns and villages saddens me. Many of them are going to rack and ruin. Many pubs have also gone out of business. Successive Governments did everything they could to ensure the closure of pubs and small shops, leaving villages decimated. Those that remain open are under attack.

The Minister for Justice and Equality, Deputy Alan Shatter, thought it was a good idea to close rural Garda stations. People, particularly those living in rural Ireland, will remember this. The Minister also closed Garda stations in urban Ireland, including one in which 36 gardaí were located. As I have stated previously in the House, the cost of closing a Garda station is greater than keeping it open. The Minister has misled the House on numerous occasions. On one occasion he told us that the purpose in closing Garda stations was to have more gardaí on the street, while on another, he told us gardaí were being taken from Garda stations and placed in community centres and so on. Where was the common sense in this approach?

When I look at those sitting on the front benches on the Government side - I do not include the Minister of State, Deputy Michael Ring, in this, as he is a good Minister - I see people who have never created even one job. A person who cannot create a job for himself or herself cannot create jobs for his or her friends and neighbours. Many Ministers would not have a clue how to create employment, which, sadly, is evident from some of the decisions they have made since taking up office.

**An Leas-Cheann Comhairle:** The next speaker is Deputy Seán Kyne who I understand is sharing time with Deputies Damien English and Áine Collins.

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**Deputy Seán Kyne:** At the recent regional consultation meeting in Galway on the Action Plan for Jobs 2013 a local businessman lamented the time he had to devote to navigating regulatory issues. He contended - correctly, in my view - that the time spent on such issues was not time spent on strengthening and growing his business. Almost all of the businesspeople who spoke at the meeting told of difficulties in grappling with rules and regulations at different levels of government, including Departments, local authorities and State agencies. This legislation will go a long way towards addressing the concerns of the people assembled at that meeting in Galway and all of other men and women running businesses across the country.

We cannot underestimate the significance of small firms. As stated in the report of the advisory group on small business, there are almost 200,000 small firms in Ireland employing more than 655,000 people. The figure of 200,000 represents approximately half of all the people engaged in business. At a cursory glance, the ramifications of this landmark legislation will be felt directly by at least 1.3 million people and indirectly by hundreds of thousands more.

*1 o'clock*

The overarching theme of the legislation is consolidation. It represents the culmination of a long period of consultation and co-operation with input from experts and stakeholders from across sectors including business groups, Departments and agencies, the legal and accountancy professions and trade unions. The legislation is the most comprehensive put forward by this or any Government in the history of the State, with 25 parts, more than 1,400 sections and 17 schedules. It indicates how central businesses - from the most local, community-focused organisations to the largest corporations - are to communities across the State. As anyone who has ever had cause to examine or consult legislation will know, there is little that is more tedious and time-consuming than having to search back and forth through various Acts and their amending Acts. We often hear talk of plans to create a one-stop shop for a scheme or a sector. This Bill achieves that task in terms of setting out the law as it stands for companies - for their formation, operation and, if required, their winding up. From the duties of directors to the law concerning shares and share capital, this Bill covers it all.

However, the Bill also goes beyond consolidation by setting out innovations and reform across an array of areas, including business type, director duties and offences against the Companies Act. As the Minister for Jobs, Enterprise and Innovation, Deputy Richard Bruton, has noted, the Bill will make it easier for companies to be aware of and understand their legal obligations, reduce red tape and simplify obligations, reduce regulation and compliance costs, and improve competitiveness, ultimately ensuring that our Irish businesses receive the support they need from the Government to prosper and flourish and so in turn ensure that our communities do likewise.

Continuing the common-sense approach, two thirds of the Bill sensibly focuses on private limited companies, as this company type is the most popular choice of business model. It is interesting to note that this company type is a little over a century old and was first permitted within the 1907 Companies Act. Among the most radical of the reforms for the traditional private company limited by shares is the abolition of the objects clause, which means that a company will now have the same legal capacity as a natural person, with particular positive consequences in terms of accessing finance and credit. Several other reforms include the new summary approval procedure, which will allow companies to carry out certain activities without having to seek High Court approval, as well as new powers to engage in mergers and divisions, heretofore not provided for private companies under Irish law, which all contribute

to faster, more efficient decision-making and ultimately place Irish companies in a much improved position to compete in the more complex and competitive global marketplace.

One of the most welcome provisions of the Companies Act 1990 was the introduction of the concept of examinership. Examinership recognised that a company experiencing difficulties of a temporary nature might, with legal protection, time and space, be able to work its way through the difficulties. Thousands of companies here have successfully availed of examinership since the law was introduced. The new Companies Act sensibly permits examinership through the Circuit Court so that it will be a realistic, more affordable option for smaller companies, which make up the Irish business landscape to the greatest extent.

The Bill, however, also provides for a much greater degree of flexibility to facilitate people in choosing different business models should that prove more suitable to their situations. For the first time, each company type is governed by a specific part of the Bill, with the creation of new, more flexible company types. It also recognises the evolution of a business and that at times a different model may be a better fit for the organisation. That is why the Bill contains a provision to enable a business to change business model, subject to satisfying clearly defined rules.

While we must cherish and support entrepreneurial endeavours, we must also ensure that a person takes responsibility for his or her actions concerning a business. While we must facilitate innovation and sensible risk-taking, we must not facilitate recklessness and irresponsibility, which often leaves the taxpayer exposed and picking up the pieces.

A particularly important and innovative component of the Bill is to be found in Part 5 - that is, the duties of directors and other officers. This sees the codification and consolidation, in their entirety, of the duties of the director and other officers of the company.

Section 226 is of specific note as it concerns larger public limited companies, the failure of which can have greater ramifications, as we have unfortunately seen in recent times. The fact that directors will be required to make an annual statement acknowledging that they are responsible for ensuring that the company has complied with its relevant obligations demonstrates the importance of the role of directors and also makes certain that a director will be unable to declare that he or she was oblivious to regulatory failures should such failures be uncovered. Section 229 sets out the main fiduciary duties, including the requirements to act honestly and responsibly, to avoid conflicts of interest, to act in accordance with the company's constitution, to exercise care, skill and diligence, and to have regard to the interests of the employees and the members of the company.

I am heartened to see the prioritisation of ethical matters. While the vast majority of Irish companies have operated ethically and in good faith, regrettably there have been those which have not upheld such high standards. Those which have acted in an unethical manner, while perhaps not illegally, have often done so often for personal gain at the expense of others, including the taxpayer. Unambiguously stating these duties and revising and strengthening the rules concerning liability for breaches and failures will not only hold to account those acting recklessly, unethically or illegally but also protect those who act honestly, genuinely and faithfully.

Furthermore, Parts 14 and 15 comprehensively address compliance and enforcement and adopt a more stringent approach. Regrettably, in the past number of years the Office of the Director of Corporate Enforcement has had a greater workload and increasingly complex cases. I

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welcome the fact that the Bill before the House today sets out the functions of the office while also innovatively categorising various offences against the Companies Act. The Bill demonstrates that so-called white-collar crime will rightly be dealt with as effectively and expeditiously as any other category of crime.

It is the aspiration and wish of the Government to put in place the conditions necessary to create jobs. While we cannot, except in a small way, improve the overall European and world economic climate, we can and must change the conditions within the country to help business start-ups and existing businesses to maintain jobs. It has become a cliché to say that we must reduce red tape and bureaucracy for businesses, but this Bill will do exactly that.

I look forward to the taking of Committee Stage at the Select Committee on Jobs, Enterprise and Innovation, and I have no doubt that business groups across the country will continue to submit ideas on how to optimise the climate for job creation and retention. I am confident that this ground-breaking legislation will permit the Galway business person I mentioned initially and business people across the country the time to concentrate on expanding their businesses to compete nationally and globally and, ultimately, to create the jobs that are vital to our economic recovery.

**Deputy Damien English:** I thank the Ceann Comhairle for the opportunity to speak on this Bill, which is highly anticipated and will be significant for the business and legal sectors for generations to come.

As Chairman of the Oireachtas Joint Committee on Jobs, Enterprise and Innovation, I welcome Second Stage of this Bill and look forward to facilitating as much debate on it as necessary on Committee Stage. I am conscious that Deputy Kyne, Deputy Áine Collins and other members of the committee welcomed the Bill and looked forward to its consideration on Committee Stage but I will have to remind the members of the committee to book most of the autumn for its consideration, because it could take us three or four months to deal with the 1,429 sections of the Bill. At a meeting of our committee this morning, one of our members, Deputy Lawlor, claimed he had read 1,427 sections and has only two more to read. We will have a busy time ahead and it is important we all put the work into this Bill and get it through the Houses as quickly as possible as it is a long time in the making.

I wish to join the Minister, Deputy Bruton, in acknowledging and thanking the officials in the Department for Jobs, Enterprise and Innovation, the Company Law Review Group and the Office of the Parliamentary Counsel for their complete and meticulous work in bringing this Bill from inception to publication to the Second Stage debate today over the past six or seven years. I also want to acknowledge the many groups and individuals that have written to members of the committee, and to myself as Chairman, offering assistance, help and guidance in bringing the Bill through the Houses. None of us here are experts and we do not know everything there is to know about this legislation. Given the large number of sections in it, it is important that we consult all those who would be affected by it and do a good job in bringing it through the Houses.

Our Taoiseach has said many times that the ambition is for Ireland to become the best small country in the world in which to do business. That means all business, small and large, domestic and exporting. It refers to those in the retail trade and those serving local communities. It means those paying their taxes and charges will be able to work in a legal, regulated and fair marketplace. That is the reason this Bill is extremely important. I believe we will achieve this

ambition. The scale of reform and action across the Government to improve our competitiveness is unyielding until we reach our goals.

It is important to understand that becoming the best location for business and enterprise is not an end in itself. It is not for business's sake alone that we do it, but for the sake of the people. Only a successful and thriving enterprise environment can provide the types of opportunity that our people demand and need. The jobs from a growing economy can support their dreams, fuel their ambitions and provide for their families. It is a big challenge. There is a great deal of work to be done. The Companies Bill 2012 will be a main component of this work in providing the opportunities needed to make it easier to start up and run a business in this country and create employment. Ireland, like many other countries in Europe, has experienced an unemployment shock in the past few years from which it has yet to recover. Our citizens rightfully expect us to show leadership to get the economy moving again, to help businesses develop and to get people back to work.

To succeed, we must now show leadership to transform the way we do business, to build a sustainable future for business and our citizens. For business, this means being ready and willing to adapt to the emerging and improving business environment, to adapt to new law such as this Bill, to work with Government and its agencies as we seek to improve national competitiveness, and we in turn will provide the stability and security needed by business to prosper.

The Government is rebuilding the economy by moving it from a failed model based on property speculation, banking and debt to a sustainable economy based on enterprise, innovation and exports. I am glad to say that significant progress has been made in dealing with the many legacy problems. We still have a long way to go. Over the past two years we have worked hard to bring a new level of stability to our economy and politics which is now allowing us to focus on the main challenge of getting Ireland working again.

With renewed confidence and belief in ourselves, the most troubled economic period of the recent decade is now behind us. I have no doubt that we will collectively overcome the current economic challenges before us. As our competitiveness improves, we have seen our economy return to growth for the past two years. Further growth is forecast for this year. Costs are back to 2003 and 2004 levels and our exports are breaking new records. The growth is small. It is going in the right direction but we still have a lot of work to do.

The Government's top priority is to get Ireland working again. We have started to see some positive improvements in the unemployment situation in Ireland. We have seen a turnaround in private sector employment, moving from a net loss of 250,000 jobs in the three years leading up to this Government's election into office in 2011 and have recorded a net increase of over 12,000 in the past 15 months. We are still losing jobs but we are winning more per week than we are losing and that is a positive development. If we keep that up and increase the number we win and reduce the number we lose we will be in a better place in a couple of years time.

A good example of this can be seen in my own county of Meath where there are now some 4,771 jobs in Enterprise Ireland supported businesses. This is even more encouraging as there are now more jobs in EI supported businesses in Meath than in 2008. While we are not always happy with the IDA and demand more for our constituencies I am quite impressed with Enterprise Ireland's results in the past couple of years. The IDA is doing amazing work for the country. The past two years have been two of their best ever. Deputies naturally fight for more for their own counties so we will keep the pressure on the IDA.

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I welcome the fact that the Bill consolidates and simplifies over 50 years of company law. Since 1963 there have been 15 amending Acts. There have also been many statutory instruments and hundreds of EU directives coming through every year. When I worked on the Oireachtas Joint Committee on EU Scrutiny, on average 500 new directives came before us every year. Under the new regulations many of the directives go directly to the relevant committees but we deal with ten or 20 at every meeting. A lot of legislation comes at companies, and to deal with it they have to do a lot of work. It is important to have new consolidating Bills such as this which make company law more accessible to more people. This is a good development as clear law leads to more compliance and comprehension on the part of those setting up and already in business. It also helps legitimate businesses to flourish while making it less of an incentive to operate illegally. This has come to the attention of Oireachtas Joint Committee on Jobs, Enterprise and Innovation as we investigate the black market and its effects on legitimate retail trade. At our regional meetings we hear directly from the retail trade and interested groups on how we can further tackle the black market sale of goods and services. We look forward to reporting on this to the Minister for Finance and the other Ministers in the coming months, hopefully in time to effect change in the budget.

I commend the structure of the Companies Bill. It is great to see that for the first time in company law the private company limited by shares is placed at the heart of the Bill. This will be of great relief to the SME sector. The unfair demands that were being placed on small business will be lessened and the environment for small companies and those run by families or with one director will be clearer and more straightforward making it easier for them to survive, thrive and create jobs.

**Deputy Áine Collins:** I too welcome the opportunity to speak on this Bill. I assure Deputy English that the committee looks forward to the autumn and relishes the opportunity to go through this Bill section by section because we know how important it is.

The focus of this Government and particularly the endeavours of the Minister for Jobs, Enterprise and Innovation, Deputy Bruton, is to ensure that everything possible is done to create an environment for business to prosper. It is now well accepted that government does not create jobs but an effective government and Minister create the environment for job creation. The Minister has worked consistently over the past two years to increase our competitiveness as a country, to demystify systems that create uncertainty, to examine our bureaucracy and costs for professional services, all in an effort to encourage people to get involved in enterprise and job creation. Company law is a fundamental block to building any business. The simpler and more comprehensible it is the more people will participate. This Bill is the largest substantive legislation dealing with company law since the foundation of the State. It will bring significant benefits to companies of all types throughout the country and will add greatly to the Government's drive to make Ireland the best small country in the world in which to do business.

Until now company law has been incorporated into 16 Companies Acts which date from 1963 to 2012. I know from my own experience as an accountant and having studied this that it was a huge issue for small businesses and small practices. The situation has been a nightmare for ordinary business people, especially SMEs who have not had the in-house experience to understand this legislation. As well as being a nightmare for entrepreneurs the situation was a bonanza for professionals whose input was necessary to interpret the relevant parts of any of these 16 Bills meant for SMEs. Not only did it add substantial costs to businesses but because of the complexities it added to business people's anxiety because it was difficult for them to understand their responsibilities as owners and directors of SMEs.

The Bill consolidates the existing 16 Companies Acts in one substantive Act. The most common type of company in Ireland, a private company limited by shares, will now for the first time in Irish company law be placed at the centre of this legislation. All the law which applies to this common type of company which represents up to 90% of all companies registered in Ireland will be contained together in parts 1-15 of the Bill. This law will be set out logically to follow the life cycle of a company, starting with the provisions governing corporations followed by sections which apply to the ongoing operation of the company before dealing with provisions which apply to the closing down or winding-up of a company. The main provisions in the Bill which simplify the whole process for private companies limited by shares are that only one director is required. The company will not be required to hold a physical AGM. Under the old system a company had to adhere to many unnecessary procedures to comply with the law. The constitutional requirement is simplified such that when the Bill is passed a company will have the same legal capacity as a sole trader. This will aid the establishment of a variety of commercial transactions and reduce compliance overheads. Private companies will be able to engage in mergers and divisions. Under current law there is no provision for two companies to merge. I welcome the new rules on audit exemption because this is a huge cost for companies. Directors' responsibilities will be clearly set out and simplified. All offences under company law will be streamlined.

Most of the provisions in this Bill deal with SMEs. The changes are very significant and will make it easier to become involved in business and for business to expand and provide jobs. This is just part of the Government's drive to create the type of business environment that will encourage our own entrepreneurs and create a feel-good factor for business generally. It will enhance the emerging reputation of this country as being one of the best places in the world to do business. I commend the Bill to the House.

**Deputy Seamus Healy:** In introducing this Bill the Minister said that we were at the foothill of a very big debate and that this is a landmark project. There is no doubting that is the case. The Bill has been in gestation for almost 12 years under the remit of six successive Ministers and numerous reports. It comes from a very different and damaging era in Irish society, which had an ethos of light touch regulation. That culture has had devastating effects on Irish society and business and on workers and their families. There have been six austerity budgets, annual or more frequent cuts to services, huge tax increases and significant job losses and emigration. Unemployment stands at 14% with 430,000 unemployed and many people leaving the country. The Bill comes from that era and is, unfortunately, deeply flawed in several areas as a result. Small and medium-sized enterprises are vital to the retail trade, the economy, its recovery and employment creation. We must ensure the many retail outlets and businesses closed on the main streets of every city, town and village are brought back to life to create employment. I welcome those aspects of the Bill that reduce the burden of red tape and help the day-to-day operation of businesses.

Unfortunately, under the cover of this legislation, there are some seriously flawed provisions and omissions which must be rectified. The Bill provides that a private company limited by shares, or the new LTD company as it will be known, will have the same legal capacity as a natural person. I am advised that this is a seismic shift which will prove seriously damaging to workers' rights, particularly the rights of women workers. Giving a company the legal personality of a natural person is unprecedented. It is hard to understand and believe Cabinet members who were formerly trade union officials, including the Tánaiste, could leave this provision through the Cabinet.

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The Bill should include a specific provision to ensure workers would be regarded as stakeholders for the purposes of representation on the boards of companies and, accordingly, would have the right to sit on the board. The Bill also states a LTD will no longer be obliged to go through the formality of holding an AGM, annual general meeting, whereby all members must convene at one location at the same time once a year. Instead, members will be allowed to have a written AGM, whereby all matters can be dealt with. This is an incredible provision which will have seriously damaging effects on many companies. Residents in apartment blocks run by a management company will now not have the right or entitlement to attend an AGM to hold the company to account. This is a wrong and damaging provision which should be withdrawn.

The Bill will allow a LTD to have only one director; under the current law the minimum number has been set at two. The current arrangement should remain, as it allows for necessary checks and balances. Provision should also be made for public interest directors with legislative teeth, not like those in some of the banks who just want to be paid and have no hand, act or part in the running or calling into account of the banks' boards on behalf of the public.

Workers should be priority creditors when it comes to redundancy payments, with the ring-fencing of company pension funds to ensure companies cannot declare themselves bankrupt or go into liquidation, leaving huge holes in such funds. I congratulate and compliment the workers of Waterford Crystal who this morning won a significant court case on their entitlements and rights in pension payments.

The issue of commercial rates or local development charges, which present a particular difficulty for small retail companies, has not been addressed in the Bill. Neither has the hoary old chestnut of upward-only rent reviews. The Government promised it would deal with this issue and the Bill provides an opportunity to do so. An affordable examinership process must be introduced so as to make it accessible to small businesses.

I would go so far as to suggest the Bill should be withdrawn and redrafted as it contains significant flaws. At a minimum, there should be significant amendments to address the issues I have raised. The Bill which, in particular, gives a LTD the legal personality of a natural person is simply not good enough

**Deputy Stephen S. Donnelly:** I congratulate the Minister and his officials on this Bill which is a fantastic step forward. Legitimate concerns have been raised on Second Stage which I hope will be dealt with by the Minister, his officials and Members on Committee Stage. Still, the Bill is to be welcomed, notwithstanding these concerns.

I am new to the legislative process, having only started looking at legislation two years ago. Before then, I had never seen a Bill or an amendment in my entire life. I was horrified by how complicated, labyrinthine and inaccessible the process could be. One gets a Bill which can refer to an Act dating from the 1930s or 1960s and one needs a team of 12 lawyers just to follow the threads. This Bill is a fantastic development and I would like to see the consolidation of as many Acts as possible, as well as more efforts to simplify them and make the language more accessible.

This Bill will make life easier for companies. I hope it will mean they will have to pay lawyers less money and that businesspeople will not have to deal with inaccessible and labyrinthine legislation in order that they have more time to do what they enjoy doing, which is innovating, selling goods and services, creating wealth and generating jobs.

I hope the Bill goes some way towards reversing a worrying trend. Only a few years ago Ireland was highly distinctive in terms of ease of doing business. The best known international metric is probably the World Bank's ease of doing business index. In 2009 we were seventh in the world, which is phenomenal. I believe we were fourth in 2008. I could be wrong but I think we were even better in 2006 and 2007. I looked at our position this morning when preparing my contribution and it turns out we have drifted to 15th, which is worrying. Obviously, this is a niche for us where we should be distinctive in the world.

The World Bank rankings can point us to some of the areas on which we must focus. On paying taxes us law-abiding citizens are sixth. Ironically, on protecting investors we are also sixth. How we are not first in the world after everything we have done for international investors in this country is beyond me. I would love to know who are bigger saps than ourselves. On enforcing contracts, which is very important, we are only 63rd in the world; I understand the rankings are done for 150 countries. Interestingly, on getting electricity, a key factor input for many businesses, we are 95th. My understanding is that we have some of the highest energy prices and some of the highest paid utility workers, if not the highest in the world. That is something for the Minister to examine. On dealing with construction permits we are 106th. The World Bank index could be useful in trying to drill down into how we can keep our ranking up. Ireland should aim to be in the top five in the world and sell that abroad as a reason for people to do business here and for people to come here and invest. I encourage the Minister to examine those issues to determine what can be done.

As well as making company law more accessible the Bill proposes some very good changes. I agree with the removal of the stipulation on two directors. Having one director is useful, particularly now with so many young, hi-tech educated people out of work here. There is a great deal of space for very small-scale entrepreneurship and the more that can be done for a single entrepreneur sitting in his or her bedroom or at the kitchen table trying to do something the more useful it is.

I had intended to commend the removal of the need for a physical AGM but I listened to Deputy Healy express his concerns about that and he makes a good point. The point I intended to make was that it streamlines operations and will cut down on costs but Deputy Healy made the good point, which I hope can be examined on Committee Stage, that companies cannot abuse that. I hope the property companies to which he referred cannot use this to circumvent important accountability, which is allowing all the shareholders or owners of the properties to come together. I hope that has been addressed already through the legislation but it might be an issue to be addressed on Committee Stage.

Clarification on directors' loans to ensure they are properly documented is welcome and will inevitably lead to a greater level of transparency and responsibility. I particularly welcome the categorisation on directors' offences, mentioned by a previous speaker, with a maximum fine of up to €500,000 and custodial sentences. It is fair to say that the vast majority of the public does not believe that white collar crime is taken seriously in this country and that there is a serious gap in enforcement. I welcome this measure in the Bill and hope it will be carried through because having the tools in place is one thing but they must be enforced.

The Bill contains a variety of ways to reduce red tape but we must have a balance in that regard. We do not want to fall into the late 1990s and early noughties trap of *laissez-faire* markets, light touch regulation and the market, the companies and the banks always knowing best. They do not. There is a careful balance to be struck and for me, red tape is the non-value added

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bureaucracy, administration and so forth. I welcome everything that reduces what I see as red tape, which is the bad stuff, and I hope the Minister will be cognisant that globally we got this badly wrong in the past in terms of letting the markets do whatever they want. I hope we do not end up making some of those same mistakes in an attempt to make the environment for doing business as reasonable as possible.

While we are talking about company law and job creation making things easier I want to put some ideas to the Minister of State to bring to the Minister, Deputy Bruton, for consideration, one of which is a tax deductible scheme for employees to invest in their own businesses. I asked a venture capitalist in London last year why he thought the *modus operandi* for entrepreneurs in Ireland appears to be to start a company and sell it as quickly as possible for €100,000, €500,000, €1 million or €10 million. In the media we celebrate the sale; the sale is the success. I lived in Boston, which is one of the main venture capital and entrepreneurial hubs in the world, and that is not how the people there think. It is not how they think in Silicon Valley or in London. I asked him why we appear so obsessed with selling the company to Google or whoever as soon as it is worth something. He said that one peculiarity of business and entrepreneurship in Ireland is that the people who set it up try to hold on to all of the equity. They will cede equity to people who invest in the first round, second round etc. but his observation was that culturally we do not like sharing out equity.

There is research that shows when employees have bought in, various good things happen. I am positing. I have nothing to back this up but if more employees own the company or have bought in to the company we might be able to retain them as Irish companies for longer and grow them, as they do in other countries, rather than what seems to be this obsession with getting it in for three years and then flogging it for as much money as we can get. A tax deductible scheme to allow employees buy in to the equity in their firms might be an interesting proposal for consideration.

In the vein of the red tape in the Bill I would like the Government to examine the number of certificates companies need to operate. They need items from the Health Service Executive and from the council for change of use. I am told some businesses can need up to 21 different licences to trade. A good deal of streamlining could be done in this Bill, and much of it may need to include the councils.

I am out of time so I will briefly mention some of the other issues. The upward only rent review is something the Oireachtas should have dealt with. It was a pity the courts stepped in in the Bewleys case and made the right decision. I would like to see a hub of innovation centres throughout the country. There is huge opportunity in that regard. I have seen similar models in the United States and in Germany whereby the state essentially subsidises small office units for one, two or three entrepreneurs. They have shared services and high-access broadband. They can bring in training around accounting, entrepreneurship and these hubs of entrepreneurship are created. The most important facet of them all is that 20, 30 or 40 entrepreneurs across ten or 20 different business are all sharing ideas and expertise. There are a small number of examples in Ireland but if it could be rolled out strategically it would be very useful.

The county enterprise boards should not be put into the county councils. County councils are not entrepreneurial organisations. Notwithstanding that they might have some fantastic people as members, it is a mistake. It has not happened yet. It is in the area of the Minister, Deputy Hogan, but it is not a good idea.

I encourage the Government and the Minister for Finance to give more funding to the Minister for Jobs, Enterprise and Innovation, Deputy Bruton, for the venture capital fund. This fund is a fantastic idea and it can leverage more money. Currently, the fund is approximately €18 million a year and that is welcome, but it should be ten times that. No doubt the Minister is listening and I hope he will give Deputy Bruton a lot more cash for the fund.

It has been clear as day over the past two years that the social welfare system does not encourage people to work. I have tried to give people short-term work for five days a week, but they have told me that the social welfare offices have told them they cannot take that work. They can work for three days a week, but if they do five days they lose all their benefits. There are clearly opportunities to make this area more flexible.

Another issue concerns both the Minister and, probably, the Minister for Communications, Energy and Natural Resources, Deputy Rabbitte. The ESB has a fibre optic network throughout the country, but most of it is dark. I understand the ESB is asking for too much money to connect people to it, because, understandably, it wants to recoup its costs. However, I am aware that some very exciting businesses were not established in various places around the country because they needed connectivity and a lot of bandwidth. The ESB was the only way of providing that facility, but the amount of money it sought meant these businesses did not get set up. I believe there is a great opportunity for public value for the State to subsidise the lighting of some of this dark fibre for companies. This would lead to more jobs, tax receipts, etc.

I thank the Ceann Comhairle for the extra time and I commend the Minister and his officials on the introduction of the Bill to the House. It is a fantastic step forward.

**Deputy Paschal Donohoe:** When I was a Member of the last Seanad, the then Senator, Joe O'Toole, used to stand up regularly and ask the various Ministers who came to the House the position with regard to the consolidation of company law. He made the point that this consolidation had been long heralded and promised, but deadline after deadline had been missed. The response the Senator always received was that due to the vast complexity of the work and the huge number of Bills involved, it was taking much longer than anticipated, but the legislation would arrive soon. That day has now arrived. The reason the then Senator was so persistent in raising this matter was that even though it is an area of gigantic complexity, with many different Bills involved, it is something that will have a decisive impact on how companies, entrepreneurs and individuals operate within Ireland. Having had an opportunity to look at other pieces of company legislation and having looked at this Bill, I am aware there was huge work involved in getting it to this point. We should therefore welcome the fact we are at a point at which it has been brought to the Oireachtas for debate and adoption.

I wish to make three specific points with regard to how this Bill will be implemented and the impact I hope it will have on companies. I believe the reason this legislation is so important is that individuals who seek to start businesses and invest here need two things from the regulatory environment in which they must operate. First, in so far as is possible, they need simplicity and clarity. They need to be able to understand the rules involved and what they must do to meet the requirements. Second, they need certainty that the environment in which they will operate will exist tomorrow, next year and the year after. One of the reasons the Bill is so welcome is that it will provide greater clarity to many investors and companies in Ireland with regard to where they stand currently and the rules that need to be obeyed. It will also make clear that after the implementation of this Bill, the rules will be in existence for quite a while to come. Businesses will understand that any changes related to the areas covered within the Bill

are likely to be changes of degree rather than fundamental changes.

There are other areas that are important to companies seeking to set up businesses here. As this Bill is being discussed in the Dáil today, we should acknowledge that one of the largest foreign investors in our country, PayPal, has opened a new office in Louth, employing more Irish people. One thing that company has acknowledged in statements relating to opening up that office and its other investments in this country is that this is a good place in which to do business because of the quality of our workforce and the environment in which businesses operate. However, I believe the president of PayPal recently said that despite the amount of investment it is seeking to make here and the number of people it wishes to employ, one in five of those it wishes to employ are likely to have to come from abroad. The reason for this is language proficiency and the ability of those who will work in the company to do business with various cultural groups through the languages required. This must give us food for thought. Despite all the progress we are making in so many areas, despite progress made through Bills such as this, despite the enhanced competitiveness of our tax system and despite the good things we say about our educational system - much of which is true - we still find that for a large investor who is seeking to create new jobs in a country with catastrophic levels of unemployment, the skill levels are not sufficient for that investor to employ Irish people alone. This is a sign that the kind of work the Minister for Education and Skills, Deputy Quinn, has signalled regarding the overhaul of the junior certificate syllabus is necessary. It is a sign we need to continue to question and challenge our system to ensure the rhetoric around our education system - much of which is justified - is met by the reality of what we deliver to our students. We must challenge ourselves to ensure we meet the needs of employers and others who want to hire our students when they leave our schools and colleges.

We must also focus on the area of procurement, particularly procurement by public bodies. Two areas are relevant in this regard. Many of the companies that depend on public procurement for their existence are small and medium-sized companies that provide the backbone of employment in this country. The first issue of particular importance for these companies concerns how long it will take to receive payment. The second concerns the changes taking place currently regarding centralisation of procurement, which are being led by the Minister of State, Deputy Brian Hayes. I agree completely with centralisation of procurement and believe it is a much overdue reform. However, we need to ensure, as we implement this, that we do not move from an environment or market in which we have 1,000 suppliers and one buyer to a model in which we have one supplier for one buyer. Moving the pendulum to that position would result in a structure that is as risky as that from which we are starting. Deputy Hayes has acknowledged this and has said that what we need to do is to ensure the procurement model to which we move is one that is diverse. Instead of a system under which a small number of companies win all the business, we must select a model under which a larger number of companies, though not as large as currently, win business. The model must ensure these companies are competitive, but it must also ensure that the public body continues to have some degree of choice regarding the company from which it buys. A concern I have had regarding how this has happened in the past is that we could move from having too many suppliers to having too few. As I have said, that would be risky because it would be inefficient.

I would like to make a point about the implementation of this law. Deputy Donnelly rightly said he hopes we end up with fewer solicitors and barristers being involved in having to interpret the complexity of this area and in the implementation of it. I think the whole area of implementation is crucial. During previous company law debates in this House, I have expressed

concern about the scale and size of the bodies that are involved in the implementation of our company law. I refer to the Office of the Director of Corporate Enforcement, for example. I accept that we are making progress though measures like this to ensure our law is clearer and simpler, but we need to make sure an adequate number of the right kind of people are involved in the implementation of this law in the future.

A famous book, *The Smartest Guys in the Room*, was written about the collapse of a large company in America some years ago. Its title referred to the idea that the company in question always hired the smartest people. Similarly, it is appropriate for us to challenge ourselves to ensure the smartest people in the room when our company law and our financial regulations are being implemented are people who are paid for by the State. We should also have the right numbers of those people. On the basis of figures I have seen regarding the past implementation of financial regulations and company law, I am concerned that the right number and the right kind of people have not always been involved in doing that on our behalf. As we make progress in tidying and clarifying the law, as we are doing in this Bill, I urge the Minister, Deputy Bruton, to provide that we continue to challenge ourselves to ensure the right resources are in place when that law is being implemented. As we know, the passing of good law is just half the battle. I would argue that the most important thing is to ensure that good law is well implemented.

**Deputy Kieran O'Donnell:** I am delighted to contribute to the debate on this Bill, which is very welcome. My general view is that new legislation is not always needed. In many cases, the old legislation should be reviewed to see how it can be made fit for purpose and suitable for modern use. Much of the legislation that was introduced over many years is never used, or is not used properly. This Bill will consolidate the various enactments associated with the Companies Act 1963, with which we are all familiar as the source of more or less all our company law. Having operated in this area over many years, I know this legislation will make life much easier. Up to now, practitioners have had to pore over rafts of property legislation and cross-reference it. This Bill will consolidate all aspects of property law. It will improve our competitiveness as a country, make it much easier to do business and reduce red tape.

I would like to comment on a couple of aspects of the legislation that have struck me. Two directors will no longer be required. One director will suffice. That will make it much easier and much more streamlined. Changes have been made over the years. There used to be a requirement for two shareholders and two directors. That was changed to require one shareholder and two directors. It has now gone a stage further. The new approach, involving one shareholder and one director, will make it much more streamlined. The approach being taken with regard to AGMs will also be much more streamlined. It will be a case of ensuring the proper procedure is in place, rather than requiring the holding of meetings that might not be fit for the purposes of the modern company.

I have used the term “examination lite” to describe one of the provisions of the Bill. Companies of a certain size will no longer have to go to the High Court in cases of examinership. If they satisfy two of three criteria - having a balance sheet of less than €4.4 million, having a turnover of less than €8.8 billion and having fewer than 50 employees - they will be able to take the examinership route through the Circuit Court rather than the High Court. That is very much to be welcomed.

I would like to speak generally about the small business sector, particularly in the domestic economy. The Minister will be aware that SMEs are under enormous pressure at present. We are looking at restructuring home loans and mortgages, which is extremely important, but it is

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just as important to restructure SME loans. Many companies operated soundly for many years until the Celtic tiger era, when the banks insisted on them having property as security. Many of them invested their returns and borrowed heavily to invest in property. Many of them are still making money from their core businesses, even if they are under pressure in that regard, but they are being dragged down by property debt. I ask the Government and the Minister to meet the needs of the SME sector by pushing for the decoupling of SME property debt from the core business of SMEs. Many of these businesses employ large numbers of people. They are being dragged down because they are servicing debt on properties that, in many cases, are not worth a fraction of what was paid for them. The properties in question are likely to be in negative equity and are probably not yielding rents. I feel strongly that this has to be taken on board.

If this economy is to continue the way it is going and to have real and substantial growth, we have to look after our SMEs. While I accept that foreign direct investment is hugely important for our economy, I feel that the SME sector is just as important if not more so. The companies throughout the country that employ five, six, seven or ten people were established by entrepreneurs. We have to create an entrepreneurial culture in which people take risks. Many SMEs are drowning under debt that is related to property rather than to their core business. This must be the next phase of the restructuring of debt. Our national debt has been stabilised. Banking debt is still an issue. Personal debt is being looked at under the insolvency legislation, as is the whole issue with mortgages. The decoupling of SME property debt from the core business of SMEs has to be a key focus for the Government. I will pursue this matter with the Minister, Deputy Bruton, and his colleagues. We have to look at it.

I welcome the fact that the credit guarantee scheme is now up and running. The latest figures suggest that over €3 million has been provided by way of facilities. That has had an impact on over 200 jobs - 180 new jobs and 25 existing jobs which have been maintained. It is extremely important. People are often unaware that every manufacturing job that is created has an indirect impact on another 2.5 jobs. It affects 3.5 jobs in total. It is something that we have to push on.

The JobsPlus initiative will take people off the live register and put them into jobs. The incentive for the employer is to be paid €1 for every €4 it costs to hire someone. That is coming on stream.

I would like to mention something of a more macro nature. We are spending over €20 billion a year on social welfare. There will have to be a greater focus on labour activation measures. We have to look at measures that will get people back to work. I do not doubt that the JobsPlus initiative will feed into that. It will be an extremely important labour activation measure.

The creation of jobs is the key challenge nationally and in my constituency of Limerick City.

*2 o'clock*

In the last two years since we have come into government, there have been 15 IDA-backed jobs announcements yielding over 1,100 jobs. I compliment the Minister and everyone involved. I will continue to have discussions with the Minister, Deputy Bruton, the IDA and the other stakeholders. With the amalgamation of Limerick city and county, there is now a designated economic director, Mr. Tom Enright, and a joint overall manager, Mr. Con Murray, who are very pro-business and pushing very much the redevelopment of the city and the county. Promoting Limerick as a tremendous destination in which to live and do business is an issue on

which I feel strongly.

To put this in context, we must ask how jobs evolve into an area. Last October, I took a phone call from a Mr. Lloyd Nolan from Limerick city, who happens to be the vice president of an American multinational company. He wanted to consolidate the European operations in Limerick so we got him talking to the IDA and discussions took place. One month ago, the Minister, Deputy Bruton, came down for the announcement of 62 high-tech jobs in the middle of Limerick city. That is what it is about. It is not always about the big announcements, although they are extremely important. It is about linking with the diaspora and with people who have connections with an area, and it is about supporting the SME sector.

We have had all the talk about restructuring our national debt, banking debt and personal debt. However, the SME sector, which is the lifeblood of this economy, is under enormous pressure and it is extremely important everyone is aware of this. I ask that a specific policy be put in place to decouple property debt for the SME sector from its real business because I believe this is costing jobs. These companies and businesses are not able to continue to trade because they cannot pay their debts in respect of property loans, which is dragging down their business.

In summary, I congratulate the Minister, Deputy Bruton, and his colleagues on this Bill, which is extremely pro-business and long overdue. Where there is consolidation of existing legislation across a range of sectors, it should be the blueprint for other areas and should be put in place. However, I want the Minister to take on board the point on the SME sector and to tackle its level of debt in order to allow the core businesses to survive and prosper. These are the groups that will, along with FDI, generate the key employment to bring us back to sustainable and healthy long-term growth figures.

**Deputy Shane Ross:** I welcome the Bill in principle because I believe it is a constructive effort not only to consolidate vast volumes of former Companies Acts but also to encourage new investment and to make Ireland a more attractive place for both indigenous industry and overseas industry. I am not quite sure I share the sentiments that were expressed in the press release, which is full of superlatives about landmark reforms to slash the cost of operating a company and to make Ireland the best small country in the world in which to do business, but I understand the language and rhetoric which is necessary to draw attention to matters of this sort. I suspect the claims are somewhat over the top but, nevertheless, the Minister's heart is in right place. It is hardly landmark legislation but it certainly tweaks in various places the law as it stands at present, and it certainly makes a very definite effort to produce a buzz and reduce red tape.

One has to be a bit careful when talking about reducing red tape. While it is a useful cliché, one man's red tape is another man's regulation. I hope the reduction of red tape does not mean the rules we have been recently forced to enforce rather more strictly in various areas, particularly the financial area, are now being relaxed again in a way which will make Ireland not just an easier place in which to operate but also somewhere the wrong sort of loose regulation leads to further mischief and difficulties down the road.

My guess - the Minister could help me on this - is that this Bill is introduced with the multinationals and native entrepreneurs in mind. I note the briefing to the Whips specifically mentions that the IDA was consulted on the Bill and my guess is that a vast number of other bodies were also consulted. In the type of climate in which we find ourselves, I believe this is targeted

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at those areas where we think there is the greatest room for expansion, which I suspect are the areas involving the multinationals and small indigenous industry. Its purpose is to facilitate both those areas and it is stated that some measures will reduce the cost of locating here in that they are an attack on bureaucracy. The Bill goes on to list the amount of professional fees that can be charged.

I am not sure it will impress multinationals all that much. I believe it will improve the atmosphere and make them less irritated by what they see here but I am not sure it will change the big picture which is, by the way, healthy enough and encouraging, although it is getting more difficult. Indeed, the reference in the Minister's press release and in other Government statements on this, namely, that it will improve competitiveness here, may or may not be true and it will certainly not reduce it. However, it fails to look at the real elements which seduce or persuade multinationals to come here. While there are several issues and several moves which could have done that, I do not believe tweaking the law in favour of less red tape is necessarily going to make that large a difference.

My colleague, Deputy Richard Boyd Barrett, regularly suggests there is a case for increasing corporate tax. My guess is that this would scare away a large number of multinationals and they would not go with any apology, they would simply go elsewhere. Competition among corporate tax regimes is very intense, not least in Europe. The Minister might be able to tell me if anyone has done a forensic analysis of what difference it would make to the economy if there were changes in corporate tax, both upwards and downwards - this would only be a projection. My guess is that, in the current atmosphere, the Minister and his colleagues should be looking at a reduction, not an increase, in corporate tax. This is the kind of heresy that always unites the conventional political parties, which say "No, Europe would not tolerate it", or, indeed, "No, the trade unions would not tolerate it", and so it is a no-no. It is said that we are up against it already, fighting with our backs against the wall to retain it at 12.5%. I am not sure about that. I would have thought that if we flew this flag in Europe, it would cause a certain amount of trouble, but it would also send a signal that there were areas, particularly company law and taxation, in which we were still an independent nation and not frightened to take steps which would offend our European partners, just as they are not frightened of taking steps which offend us. The downside, obviously, would be a loss of revenue, but the benefit would surely be drawing the attention of those multinationals looking at Ireland as really the best small country in which to do business. Were we to reduce the rate by 3.5% to 9%, I would like to see an accurate analysis of the loss of revenue and what the spin-off effects might be in terms of an increase in revenue. I do not expect the Government which is so incredibly committed to the European project and which identifies, to a large extent, with obedience to its European masters to even contemplate this suggestion for the moment, but it is something about which they should think very seriously as having a beneficial economic effect and possibly leading to an increase in revenue. When capital gains tax was reduced from 40% to 20% by a former Minister for Finance, there was uproar led by all the Opposition parties. They stated it was absurd, favoured the rich and was bad for the economy. What happened, of course, was that revenue from capital gains tax rocketed in the years after that decision was made because people were prepared to start selling their assets and moving them around, whereas before they had been prisoners in a capital gains tax trap that they could not get out of. Nobody knows the answer to this - no economist ever knows the answer to anything - but it is possible that a reduction in the corporation tax rate might produce an inflow of foreign investment and companies which would raise revenue. It would certainly improve the employment position and send a message that we did not take dictats from Europe about our tax regime. As, it is worth considering.

Multinationals look at this country in a jaundiced way, as we do not normally do business the way they do. There is another area in which they are somewhat surprised at how we run our business. I imagine they were surprised at what happened last week when a single trade union managed to sink a Government project which, supposedly, was to save us the necessary €300 million to get us out of the bailout programme and back into the market. I would have thought this would be another big area, not a small one as in the case of this Bill, at which the Government would look. It should look at no longer allowing trade union leaders who are completely out of touch with their flock to dictate the future of Government economic policy. Multinationals are staggered by this. They do not tolerate trade union leaders dictating to them, although they are very sensitive, as they should be, to the wishes and conditions of their workforce. I would have thought a challenge to the leadership of the trade unions by the Government would send a really strong message on the attractions of doing business here. What was important was that the deal was rejected by hard working members against the wishes of the trade union leadership. This tells us that something is going wrong in the power structure and the social partnership agreements when the largest trade union is completely out of touch with its membership. As any US multinational will point out, only 45% of SIPTU members actually voted in the ballot. Of these, a majority rightly went against the wishes of the leadership. This meant that only about one in five voted in favour of the agreement. The Minister may be able to correct me, but I think one in five represents only about 13,000 people who held the union and then the nation to ransom. The leadership carries enormous responsibility if it is going to torpedo Government policy and frighten overseas investors to an extent that we should no longer allow it to do.

There is almost unanimous approval of the measures brought forward in the Bill in their individual form, even if their extent is so limited. Having only one director, as Deputy Kieran O'Donnell noted, is absolutely fine. The practice of having two directors was often abused by a person in having his or her spouse on the board and getting him or her to sign something every year, even though the person not directly involved had no idea of what was going on. The proposed measure recognises the reality.

The idea of not having a physical AGM is rather like the ideal of incorporeal Cabinet meetings, of which there was one in 2008 that is now infamous. Facilitating AGMs, both private and public, is very sensible in principle, but the Minister will be aware of a certain practice that has been increasing in companies. Directors sit down, read through pre-written minutes, tick the boxes and say they are fine - that what is written down happened. One is not very far away from people saying this is what happened, even though there was no meeting. One then gets to a stage where what secretaries think ought to happen is written down and one gets one, three or four directors to sign it. One then has retrospective minutes, which are not unknown. If one does not have a physical AGM, one might not have physical meetings at all and move into the world of creative board meetings, which might not be the best possible route to go down.

The idea of memorandums and articles of association being merged into one document is very sensible. I have never seen a need for two documents and I am ashamed to say I am not quite sure what the difference between the two is.

The idea of codifying directors' duties is very important because many directors in private and public companies do not know what their duties are. They tend to be dominated by one or two people on the board. A large number of them do not do a proper job; it is a sinecure and they suddenly find they have extraordinary responsibilities they did not realise they had and are liable for things for which they did not want to be liable. Being a director of a company, both

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non-executive and executive, is a serious job. It is important that this is made absolutely clear to them.

There is a missed opportunity for the Bill to provide more radical measures. There are references to the liquidator and the need for liquidators to be approved by various self-regulatory bodies, specifically, the accountancy body, a body regulating liquidators or the Law Society.

It is high time the Government looked at the overall effectiveness of self-regulation. It has set up bodies which are sometimes effective such as IASA which looks after the accountants and the property regulation body which takes away certain powers from auctioneers. However, self-regulation has failed in Ireland.

Not that long ago, for fun, I became an auctioneer. I was not even a member of a body. I just went through the system of going down to the court and putting in a bond. I suddenly became capable of moving into this wild, unpoliced, unregulated jungle, buying and selling houses, handling people's money without any particular discipline, without being a member of a regulatory body. I did not practice, I hasten to say, at any stage, because that would have been utterly irresponsible. However, I was allowed to do so. It would have been utterly wrong but people with equal qualifications to mine are still practising as so-called auctioneers and valuers who should not be allowed near the sale of a house.

Two auctioneering bodies were set up some years ago to regulate the industry. Above all others, that exposed the very significant flaw in regulation in Ireland, in particular, for professional bodies. These bodies were set up not to look after the interests of consumers - or the end-users as they are known in this Bill - but to protect the industry itself. Both these bodies were very close to running fiascoes in terms of the disciplining of their members which virtually never happened. Rules, regulations or ethics were not imposed or were certainly significant by their absence. One only needs to see the absolutely unfettered, unhindered activity of auctioneers, valuers and estate agents during the time of the property boom, to know what I am talking about. They were issuing guide prices and exaggerated claims which were completely unchecked, unpoliced and connived in by their bodies. The result was a fuelling of the boom and the public were misled into believing that houses were of far greater or sometimes lesser value than was the case. That was the result of having no proper regulation.

**An Leas-Cheann Comhairle:** We are enjoying the Deputy's stories about auctioneering. However, he is probably coming close to the end of his time now, if not overtime.

**Deputy Shane Ross:** I will conclude. I have been providing an example of how serious regulation is needed in order to give confidence to entrepreneurs and to people overseas. A similar situation existed in the accountancy profession because the overseeing body was a farce. I will not refer to the high profile individuals who were members of that body but there was clear evidence produced by IASA itself since it was set up, that the previous body was running the regulation of accountants for their own benefit and not for that of the consumer. There are several well-documented cases which have been appealed to IASA. It has found against decisions made by the accountancy disciplinary body and these decisions have been reversed. Top accountancy firms who beforehand were regarded as untouchables by that body because of their strength, have been fined six-figure sums.

**Deputy Tom Fleming:** This is a very progressive Bill which will make Ireland a better country in which to do business. It will enable more businesses to start up and grow and so

provide the necessary jobs stimulus which is urgently required. The passing of this legislation will implement a series of changes aimed at reducing the red tape and the administrative burdens imposed on business. It will make company law more accessible for the end-user and easier both in its application and in compliance. It will consolidate existing company law legislation into a single Act which is a welcome initiative. The governance procedure should make it easier for a company to do business. It will reduce the complexity of doing business with other companies.

Local community groups and small to medium businesses are vital groups which avail of the limited company mechanism. Leader funding has transformed rural Ireland in particular and has invigorated many communities and small businesses with the necessary support and grant aid for community projects and facilities. There is a minimum of red tape and bureaucracy in accessing these funds from the partnership bodies. The approach used is from the bottom up rather than the norm in business which is often from the top down. The people are the promoters and in many cases it is voluntary effort. I rate Leader to be the best scheme of funding. I admire the democratic administration of the scheme. The funds are distributed in a business-like manner. It has transformed our communities by enabling the progression of projects.

The facilities and infrastructural development such as the partnership companies have provided a lifeline to many entrepreneurs who have been enabled to set up and grow their small businesses in their communities. These small companies provide jobs and widespread gain for the local area. In order to draw down Leader funding, community groups and small businesses are required to form companies limited by guarantee under EU regulation. These companies will benefit from the streamlining of the legislation in this Bill. Currently there are two benefits to these companies. I refer to the separate legal entity dealing with the banks and which is subject to legislation. I refer to the benefits of limited liability. Many of these companies were established by community groups with directors who started out as local committee officers. To draw down EU funding under legislation and the Leader programme, they had to incorporate. These people put themselves to the forefront on behalf of their communities. The Companies Act and the requirement to form a limited company is a protection for ordinary people who put themselves at risk for the greater good of the community but there have been alarming instances of breaches of the protections offered under the current legislation. The courts have been lifting the corporate veil to fix directors with liability in some cases. People are then faced with the burden of responsibility for the debts of companies. The current Act is being broken in certain cases and the courts are setting aside the liability benefit. There is a specific need to include in the Bill a strong provision to ensure that it provides definitive protection and clarity as members of voluntary bodies should not have to endure the repercussions of company failure. Many voluntary directors have only a small income. Their home may be their only asset or perhaps a bit of land. They may be struggling with the weather conditions we are getting in the south west in particular. Hopefully, smaller farmers will not be put out of business. They have enough obstacles to preserve their family holdings but are an example of the type of people who sit on local boards for the good of communities. Either limited liability exists or it does not. I ask the Minister to ensure the Bill is clear on the matter of the protection that should be afforded at all times. If it is not, many people will be reluctant to come forward to form companies to obtain funding for local projects.

I am glad the Minister, Deputy Bruton, is present. His colleague, the Minister for the Environment, Community and Local Government, Deputy Phil Hogan, has proposals before Government to rearrange the existing Leader companies and to transfer a sizeable element of their

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functions to local authorities. It is a retrograde step. I have served on two Leader company boards in my county. At all stages, they were accessible and co-operative in providing services to the public, including step-by-step advice and seed money for people with business plans. The companies have invigorated and transformed rural Ireland. Local authorities have been represented on them through the years, which is how I became a member of one. The boards are very democratic and representative of communities. In many instances, local voluntary committees were made up of people of goodwill and boards were composed on a voluntary basis also. They have been workable, practical and creative. The Minister, Deputy Bruton, has been very proactive in seeking to make it easier for people to create employment and has done excellent work to remove obstacles and red tape and to iron out creases. It is evident that local partnership companies have been accessible and approachable. Without criticising anyone, proposals that might have faced a mountain of obstacles before other bodies have been recognised by the partnerships. They have been the best mechanism to simplify matters and cut out red tape to get the maximum funding for small businesses and communities.

I ask the Minister to convey what I say to Cabinet. Representatives of partnership bodies have come to the Houses of the Oireachtas and held a well-attended meeting with Members. It provided us with a greater insight into what they are achieving. The management and staff of the companies are progressing and developing as time goes on and, at this stage, have real expertise. I ask that if changes are made, the basic core of the bodies is maintained. They represent the best model to deliver vital funding. There are several examples of the massive benefits they have brought to communities socially, physically and infrastructurally as well as in terms of job creation. They have delivered wonderful amenities and facilities for all to local communities. With local authorities having less money, partnership bodies are coming to the rescue to provide playgrounds and amenities for the elderly, including day-care centres. I need not set out everything they have provided. The Minister will acknowledge the abundant success the partnerships have achieved to support, mentor and fund individuals and smaller employers to build their businesses to the maximum. I am sure the Minister will acknowledge that the partnerships are at the forefront with the job creation agencies in delivering to smaller communities.

The spin-off might be someone setting up a business or expanding a business. There is a spin-off for the local community as it keeps people around and keeps the life in the community. Other little businesses benefit and it affects everyone who lives in the area. Partnership bodies are truly representative of the regions they service. In Kerry, there is the South Kerry Development Partnership, the North & East Kerry Development partnership and the eastern side is served by Duhallow, which overlaps north-west Cork and parts of east Kerry. They all working hand-in-hand. There is great co-operation, vision and foresight. Their trained staff are competent and, on a business rating, they are at the top level. If there is an impact, it is a shame if it causes their service to deteriorate. At the moment, funding is dormant and there is a moratorium imposed upon them while the Government deliberates on what will happen. It is shameful that the state of the economy means huge moneys have been approved by these bodies but cannot be accessed. Money cannot be given to the many projects awaiting funding, in particular job creation projects and amenities needed by the communities that have applied. The projects are ready to go and everything has been approved in the democratic fashion in which they work. What is happening is unnecessary. I ask the Government to allow these excellent partnerships to proceed immediately and provide the money to the people waiting. Some of the people may contemplate leaving the country. It would be a shame to see people leaving their locations where we need people to maintain the life in the place. GAA teams are suffering, as are all sporting bodies, as they lose people and try to amalgamate teams to keep their

local clubs going. A Government body delivering in an excellent way should not be hindered or obstructed in carrying out its function. Perhaps it can be rectified in the immediate future by the Government.

A matter brought to my attention concerns accountants. A constituent is a qualified accountant and a local employer in south Kerry. He owns a firm of chartered accountants that employs six people. He referred to the Companies Bill and told me the qualified accountants in Ireland are disappointed the Bill does not include a clause to give protection to the term “accountant”. It has been promised by successive Governments. Titles such as doctor, dentist, and solicitor are protected so that only people qualified and registered with supervisory bodies can use these titles to trade. That is not case for accountants. Anyone can set up an office and refer to himself or herself as an accountant. This is misleading to the public and is anti-competitive. Qualified accountants are required to be licensed and insured whereas unqualified accountants are not regulated and they compete against registered accountants for clients. Various accounting institutes have campaigned for this for some time and have sent a letter to all qualified accountants sitting in Dáil Éireann. The accountant would be grateful if the Oireachtas raises the issue in the Companies Bill debate. Up to 40 qualified accounting firms operate in County Kerry and provide much-needed employment.

There is no protection because anyone can give themselves the title of accountant. The competition is unregulated. The Revenue Commissioners are accepting anything provided by these people acting as agents. There is no provision requiring qualifications and it should be based on a recognised and certified qualification. The plea made by my constituent on behalf of regulated accountants is that this be taken into account and provision made within the Bill. I ask for it to be given full consideration. It is an unregulated area in an area full of regulations. We need to change these aspects of the Bill.

I received an entrepreneurship report from the Certified Public Accountants. I am sure the Minister has received it. It is an excellent document, with positive proposals. It has been circulated to all Oireachtas Members. All job creation agencies should take some time to pick out the excellent suggestions in it. We can help these people within the Companies Bill. The Minister is striving to make it easier for people to set up businesses and develop their business. The document states:

No one or nobody supports the risk takers. Entrepreneurs have to comply with so much red tape and regulation, employment, revenue, health and safety, insurances, rates, and pays for all these things, including exorbitant bank charges. Where is the support? Several others [who attended the meeting] agreed, saying there is no incentive for people to take risks in starting a business.

Some of the work we are doing in trying to streamline matters requires amendment of existing Bills. Our work should address the concerns of these people. The most recognisable entrepreneur in Ireland is Jerry Kennelly, who has won national and international awards.

He is a wonderful entrepreneur and business person. He is based in Killorglin and is a role model for people in this country. I refer also to Edmond Harty and Dairymaster. This hi-tech business is a major exporter and is a huge employer, like Jerry Kennelly. These people are role models and we need more of them. We should encourage people who have innovative and creative ideas and who are proactive and who will pave the way for modern Ireland to come forward.

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This document also states that entrepreneurship should be placed on the school curriculum at primary and secondary levels. The overall aim should be to educate students about the value of entrepreneurship and the needs of enterprise so that they are better equipped to support an enterprise culture in later life. Will the Minister speak to the Minister for Education and Skills? A multipurpose approach could be taken by the Cabinet as this is a very good suggestion.

The document also states that consideration should be given to introducing a specific entrepreneurship module in the leaving certificate business and accounting courses and in appropriate third level courses, that third level institutes should consider establishing entrepreneurship promotion units to identify and nurture potential entrepreneurs at undergraduate level and develop stronger linkages with the SME community and that self-employed individuals and company managers should be allowed to pay the full rate of PRSI and be eligible for jobseeker's benefit.

Jerry Kennelly said the enterprise boards are probably the most useful part of the State support system. He said the first help he got was from an enterprise board. I commend the Minister on the special funding he has given female entrepreneurs. This is a wonderful initiative and it will be hugely successful in incentivising female business people to come forward and lead the way.

**Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton):** I will start with Deputy Tom Fleming's contribution. I recognise the point he made about recognition of the term "accountant". This will have to be given some thought. The UK does not recognise it either. It was considered previously but some concerns were raised by the Competition Authority and the Office of the Director of Corporate Enforcement as to whether it might be unnecessary regulation and interfering with free competition. There are two sides to this argument and perhaps we could weigh up those arguments and consider the issue in further detail on Committee Stage.

I agree wholeheartedly with Deputy Fleming that we need to celebrate entrepreneurship. The idea of this Bill is not only to celebrate it but to give more businesses the protection of company law. Limited liability is a protection being endowed by the State on small businesses in recognition of the courage and ingenuity of what they are trying to do to create jobs and opportunities. We are trying to make it simpler for such people to set up a company which gives them protection.

I would not care to comment on the issues around Leader programmes as I am not knowledgeable enough about their work, although I know they do very good work. My Department is seeking to move from the 35 independent county enterprise boards to a new structure with a national centre of excellence in Enterprise Ireland and locating them in the local authority. The reason we are doing that is that we believe it will be a win-win situation. We will get a high quality national driver of quality, training and best practice but by bringing them to the local authority where they can draw in the local authority and its powerful influence across the community to create a better business environment. That is the thinking behind what we are doing. Perhaps this issue needs to be debated. It is not about killing community support for enterprise, variety or the very different ways communities approach their challenges. It is about getting professional practice into the way we support those who start up.

Deputy Shane Ross, while very generous in welcoming the Bill, questioned whether it was a landmark. I suppose that is a matter for debate. In defence of describing it a landmark, I would say there are well over 200,000 small businesses in the country and 16,000 incorporate

every year. Some 24,000 people start up new businesses every year. Many people's lives will be affected by this and if we can make it a more streamlined process and much easier for them to understand, to get protection for their businesses and to raise loans, it is not unfair to call it landmark. Obviously, we will have to prove it is landmark in its operation but my officials and the company law review group have put in a huge amount of work into it, which they have not done lightly. They have done so because they believe this can make a difference.

Some described Ireland's ambition to be the Delaware of Europe. Delaware is a state which is recognised as being really good for companies which want to form and to have a good compliant approach and an easy and flexible way to do business. That is the ambition behind this.

Many Deputies raised concerns that with the changes, we need to invest in making people aware of the new regime. We are definitely alert to that. The Companies Registration Office will work on that, as will others. There is already active engagement through conferences and legal groups to ensure word gets out.

Some Deputies gave out about the length and complexity of the Bill. When I came into this House, a Deputy said that if one could not say what one had to say in five minutes, one should not be in this House but the same Deputy spoke for an hour. Sometimes things cannot be said in a short letter. Some 1,429 sections may seem like a lot but we believe getting it right, codifying it correctly, making it accessible to people and not having to jig around with 16 pieces of legislation to find out one's obligations is worth the effort. Notwithstanding Deputy Mattie McGrath's comments, we will push on and prove to him that this will be good.

Deputy Tóibín raised the issue of the designated activity companies. This provision allows existing companies, with their objects clause, to continue. Perhaps we can debate this on Committee Stage but there are some which will want to retain their existing status and this is to facilitate them. There are cases where that will be useful but we will debate it on Committee Stage so the Deputy can be assured of the robustness of what we are doing.

Deputy Tóibín also raised the issue of directors' obligations. As we move to one director, he does not want it to mean a diminution in the obligations of directors. That is certainly not the intention. We would argue that a director whose core business is running the business is better in that there is a clear line of responsibility and he or she is not forced to have directors who are purely passengers. We also sought to codify the duties more and make them easier to understand. They are built around eight fiduciary duties, including disclosure of conflicts of interest, the relationship with auditors and the director's compliance statement.

*3 o'clock*

In each case, we sought to have a provision that is robust but easy to understand and comply with. The easier it is to understand, the more natural it is to become compliant. It is not a question of trying to find non-compliance but of making compliance easier.

Deputy Calleary asked what savings will accrue from the Bill and whether technology can be used more effectively. The Credit Review Office is trying to facilitate increased use of technology, including the use of e-forms and e-filing. It has done so by reducing fees on such filing. There is now a considerable compliance rate and a reduction in cost as a consequence of e-filing. We are dispensing with the need to have formal AGMs, for example, and this will result in savings.

Deputies Halligan, Tóibín and others raised the issue of employees who are caught in circumstances of liquidation. The law accords the rank of “preferential creditor” to workers. Workers have the same status as the Revenue Commissioners. The Revenue Commissioners must fund all public services and should, therefore, have priority with regard to bills, but workers have a similar status. Deputy Halligan asked whether workers can get more than the wages they are due and the statutory redundancy payment when a company is wound up. The protection is in respect of statutory redundancy but wages, salaries, sick leave payments, etc., are all protected and given priority.

A number of Deputies raised the issue of late payments, which are obviously a burden on companies. In March of this year, we transposed a directive from the European Union in this area. We are trying to have a voluntary code of conduct. One person’s late payment is another person’s credit, and many of the arrangements are business-to-business arrangements. We need to get businesses to agree to adopt a proper code. There has been progress on such voluntary codes in other jurisdictions. We need to push on and determine whether we can have an approach of that nature.

Deputy McGrath raised the issue of company directors not being able to represent themselves in court. That is the position at present but the Company Law Review Group is to examine the matter as part of its programme of work this year. Perhaps later in the year we will be able to report on that.

Many Members welcomed the proposal to make it easy to access examinership by allowing cases in the Circuit Court rather than the High Court. We are pushing ahead with this in the Bill. The Company Law Review Group’s report will look beyond that to determine whether there is scope for reducing the role of the courts in examinership further, for example by having an examiner appointed by administrative decision rather than by judicial decision. There could be developments in this regard if it stands up to scrutiny on examination. I believe it would be welcomed by many people.

A number of other issues were raised. I hope we will be able to deal with them on Committee Stage. The question of resources for the ODCE was raised. Deputy Paschal Donohoe stressed the importance of having high-quality people in a position to carry out enforcement. All regulatory authorities are affected by the employment control framework and the reduction in size of the public service. There is pressure in all areas. In the case of the investigations into banking, additional resources had to be drafted in to ensure the relevant cases could be examined exhaustively. We are always conscious that enforcement is important and have recently increased the strength of the Competition Authority despite the pressure on resources because, like the troika, we believe there should be an effective enforcement policy.

Deputy Shane Ross raised doubts about there being no reference to AGMs. The assurance in the Bill is that what was described could only happen if all the members agreed in writing. Therefore, it is not something that can be done idly or lightly. It applies only to the new-model private company limited by shares. It does not apply in every company. Perhaps on Committee Stage we can tease out those concerns.

A number of Deputies, including Deputy Healy-Rae, raised the issue of the audit exemption. According to the Bill, the conditions a small company must meet are such that the balance sheet must not exceed €4.4 million, the turnover must not exceed €8.8 million, and the average number of employees must not exceed 50.

Deputy Kieran O'Donnell raised the issue of viable SMEs that are being damaged by having made bad property plays. This is a valid concern and has been highlighted on a number of occasions in the reports of Mr. John Trethowan of the Credit Review Office. The Central Bank intends to develop targets for companies in difficulty just as it has done for mortgage holders in difficulty. This has been flagged as a direction in which we are moving. In the longer term, banks must face up to the bad decisions. We cannot have zombie banks, as they used to be called, or circumstances in which a failure to confront losses results in banks' being unable to do the job of a bank - that is, lending to those who need money to create opportunities. Deputy Kieran O'Donnell raised an important issue and it is obviously on the agenda of the Government. As with the mortgage issue, it is not easy or straightforward to resolve. Every case is different, and banks will be required to develop an approach that is appropriate. Clearly, however, there will be opportunities if we can address the problems of businesses that are basically sound but have other problems.

Deputy Mick Wallace, who is present, referred to raising awareness among existing directors of companies about the provisions of the Bill and directors' duties. He asked whether the Credit Review Office and the ODCE would undertake this role. Both bodies are developing material to make it easier for people to understand their obligations. That will definitely be important. As we proceed with the legislation, we will be enhancing the awareness campaign. The Bill makes provision for people who wish to retain their old arrangements. There are transition opportunities and people will not find the rug pulled entirely from under them on a given day. There is some flexibility. People will see the merit of moving to the new, simpler arrangements.

Many other issues were raised, including upward-only rent reviews, jobs in the retail sector and broadband. They are not really central to this legislation. They are all valid, none the less, and I will be happy to deal with them on another occasion.

I thank the Members who participated in this debate. By and large, the Bill was universally welcomed. I appreciate Deputy Dara Calleary's welcome for and understanding of the work that has gone into it. He dealt with this as a Minister of State in my Department. We will have a bit of a marathon on Committee Stage. We will certainly get to know one another very well, if we do not already.

I thank my officials and the company law review group for their work on the Bill. I also thank Members of the House for their constructive contributions. I look forward to the debate on Committee Stage and hope the final result will be legislation that will help business and employment creation, thereby living up to the Taoiseach's ambition that Ireland will be the best small country in the world in which to do business by 2016. We will drive forward as best we can.

Question put and agreed to.

### **Companies Bill 2012: Referral to Select Committee**

**Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton):** I move:

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That the Bill be referred to the Select Committee on Jobs, Enterprise and Innovation pursuant to Standing Orders 82A(3)(a) and (6)(a) and 126(1) of the Standing Orders relative to Public Business.

Question put and agreed to.

*Sitting suspended at 3.15 p.m. and resumed at 3.42 p.m.*

## Topical Issue Debate

### Mortgage Interest Rates Issues

**Deputy Aodhán Ó Ríordáin:** I thank the Minister for being here in person to discuss this issue with me. As he will be well aware, Allied Irish Banks is 100% in State ownership. Yesterday it announced it was adding 0.4 percentage points to its standard variable mortgage rate and raising variable rates at EBS by 0.25 percentage points. As the Minister will know, this move by AIB will adversely affect 70,000 AIB variable rate mortgage holders and put struggling households under further pressure. AIB's average variable rate mortgage is around €130,000 and this rate increase will mean an increase of almost €300 annually for its variable rate mortgage holders. AIB's standard variable customers absorbed a total increase of 1 percentage point in their mortgage rates in 2012. AIB will say that the decision to raise its variable rates is driven by the need to ensure that the bank's lending is at a sustainable level long-term. However, this is the same bank into which the taxpayers of this State have pumped €21 billion during the past four years. It is true to say that AIB has been at the lower end of mortgage lending but there is a genuine concern that it is the variable rate mortgage holder who is being asked to pick up the tab and is being unfairly hit. There is obviously a connection between this announcement and the expected announcement next week from the ECB of a reduction in interest rates, which will be welcomed by those on tracker mortgages. However, it is clear that what AIB and other banks are doing is robbing Peter to pay Paul, and that in order to absorb whatever move the ECB makes, variable rate mortgage holders will be asked to pick up the tab.

Considering our relationship with this bank, the €21 billion we have put into it, the level of resentment in Irish society about what the Irish taxpayer has had to do to save it and the amount of pressure mortgage holders are under, any mortgage holders who listened to radio reports or read newspaper articles on the rate increase this morning would have got a cold shiver down their spines when they realised that mortgages they find almost impossible to service will be even more difficult to service as a result of this announcement. Is there a plan to break the toxic link between the pressure faced by those on variable mortgages and those on tracker mortgages? There is obviously a connection between what the ECB will do next week and what AIB did yesterday. Does the Minister have any words of comfort or a direct message of comfort to offer to those who are paying variable rate mortgages and who will do so for the foreseeable future? Mortgage holders who heard yesterday's announcement will have thought about the 1% they were asked to contribute last year. There is a further increase now and they are wondering what is around the corner in terms of what more they might be expected to contribute. Every time there is word from the ECB about a lowering of interest rates, they will expect an increase

in their variable mortgage rate.

I ask the Minister directly if there is a plan to break this link. Is there some effect he can have on the situation? What words of comfort can he offer those mortgage holders who are literally terrified not just about yesterday's announcement but about what is to come in the coming months and years?

**Minister for Finance (Deputy Michael Noonan):** While the Government is acutely aware of the increasing financial stress that some households are facing in the current environment, ultimately, the pricing of financial products, including standard variable mortgage interest rates, is a commercial matter for the management and the boards of the institutions concerned. As the Deputy will be aware, the relationship framework with the bank provides that the State will not intervene in the day-to-day operations of the bank or its management decisions. These frameworks are published on the Department of Finance website. I must ensure that the bank is run on a commercial, cost-effective and independent basis to ensure the value of the bank as an asset to the State, as per the memorandum on economic and financial policies agreed with the European Commission, the ECB and the IMF.

Neither the Central Bank nor the Department of Finance has a statutory function with regard to interest rate decisions made by individual lending institutions at any particular time. While this decision by AIB is regrettable, it is strictly a commercial decision by the board of AIB and I understand that the increase brings AIB in line with the market average. The standard variable rates charged by the Irish banks are significantly below the equivalent rates charged by banks in the rest of the euro area, even though many of these banks have far lower funding costs.

It must be remembered that in order to fund mortgages, the bank must borrow at current wholesale rates, which are higher than the ECB base rate, and must ensure that the rate at which it lends is economically sustainable and provides a return for the bank and, ultimately, the State as its shareholder. It would not be fair for 2.1 million taxpayers to subsidise 138,000 owner-occupier mortgages, especially when the vast majority of these mortgage holders can afford to pay their mortgages.

I understand that the Central Bank of Ireland pays attention to the effect of any increases in the standard variable rate on mortgage arrears, and would no doubt be concerned if banks were exacerbating their arrears problem and, as such, impairing their ongoing viability by such actions.

The Government has recently set out targets for banks regarding offers made to customers in arrears. The insolvency service was launched last week and has issued relevant guidelines ahead of the acceptance of applications in the future. I understand from AIB that in the course of quarter one, nearly 8,000 customers who were in arrears were cured out of arrears via a combination of business-as-usual arrears management activity and the completion of permanent restructures and that circa 1,400 split mortgage offers have been made by the bank to its customers.

**Deputy Aodhán Ó Ríordáin:** I thank the Minister for his reply. He states in his reply: "It would not be fair for 2.1 million taxpayers to subsidise 138,000 owner occupier mortgages, especially when the vast majority of these mortgage holders can afford to pay their mortgages." It is unfair that variable rate mortgage holders are asked to subsidise those on tracker mortgages. Those on tracker mortgages are protected by contract yet nobody in this House can speak up

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for those on variable interest rates. It is our responsibility to do that. Would the Minister commit to coming before the Joint Committee on Finance, Public Expenditure and Reform to offer us a three to five year plan to deal with those on variable interest rate mortgages because this situation will get worse? If we are serious about tackling the mortgage crisis we must have a three to five year plan because every time the ECB decides to decrease interest rates that has a positive effect on tracker mortgages but it is being subsidised by variable rate mortgages. That is not sustainable. In order to be proactive and constructive will the Minister come before the committee and offer us a plan to deal with those variable rate mortgage holders?

The insolvency legislation is very welcome. It is a first step in tackling this problem. It will be of great benefit to those in mortgage difficulties but we cannot deny that the variable rate mortgage issue is gathering momentum as a problem and it will continue to be a problem unless we have a three to five year plan in order to deal comprehensively with it.

**Deputy Michael Noonan:** As I said in my initial reply neither the Department of Finance nor the Central Bank has any statutory power to direct lending institutions on the interest they charge on any particular mortgage. Debate, however, is always worthwhile and if there is to be a debate at the Joint Committee on Finance, Public Expenditure and Reform the appropriate invitations should be issued to the lending banks and to the organisations that provide mortgages. The committee can ask them if they are linking trackers with variable rate mortgages and what is their future plan.

The Government has set out its plan for dealing with impaired mortgages. That is pretty well known now because it was announced in great detail and already we can see from the 8,000 offers made by AIB in the first quarter of this year that the plan is being put into effect. It is of much shorter duration than that suggested by the Deputy.

### **Primary School Enrolment Process**

**Deputy Eoghan Murphy:** I do not want to labour my point because it is straightforward and I am conscious that it is not within the remit of the Minister for Finance. I have a problem in my constituency which probably exists in many constituencies. I am sure that Deputy Kevin Humphreys, who is present, gets the same phone calls as I get about the enrolment process in primary schools. I received a telephone call a few evenings ago from a young mother whose daughter is due to start school in September. She is worried sick because the child has not yet been offered a place. There are plenty of very good primary schools in the constituency. The problem is that the child has been on a waiting list since she was five weeks old. There is a problem in the system. One of the schools told the mother that it would not take her child because the mother does not speak Irish well enough. Another school refused her on religious grounds. She could not get into a third because it is so popular. Then the parents thought that if they could put the money together with help from their parents they might get the child into a fee-paying school but it turned out that she could not get in there. When I say the child was refused I mean that she was put on waiting lists but she was so far down that the schools told the parents informally not to hold their breath.

I have had this conversation many times with parents but never in September which makes me believe that children get school places eventually and not always in their locality. There is a real problem in the system and we need to address it in a comprehensive way because it causes worry for families. Parents then put their children's names on many lists to be sure of

getting into a school, which is understandable. The schools are not sure how many pupils are coming in the following September so they cannot plan ahead. The system is inefficient and is wasting money and causing unnecessary stress in the community for many young parents and their families.

I will be interested to hear the plans of the Minister for Education and Skills and when we will see them. This week we heard proposals from the Irish Primary Principals Association to address this problem. They talked about a centralised web-based system with an agreed deadline for applications for primary schools and an agreed response time from those primary schools telling parents whether the child had been accepted. Parents would rank the schools by preference and hopefully in a fair system children would get into schools that way and everyone would know in plenty of time where the child would be going to school and come September the schools would know how many pupils they would have. That in turn would affect class size and teacher allocations. I am not advocating the idea as a whole. I do not think the Department should be given power but there is a more efficient community-based way to approach this problem and I will be interested hear the views of the Minister for Education and Skills on the issue.

**Deputy Michael Noonan:** The Minister for Education and Skills, Deputy Ruairí Quinn, has asked me to reply on his behalf to Deputy Eoghan Murphy's query. He said that he spoke about the need for a fair and transparent enrolment process at the teacher union conferences that were held at Easter. I will quote from the Minister's speech in responding to the points raised by the Deputy:

The Education Act of 1998 set out quite clearly that schools are required to operate admissions policies that provide for maximum accessibility to the school. Put simply, schools should be inclusive.

Most schools in Ireland, most of the time, are inclusive and welcoming of all children. The Education Act, however, is light touch in terms of providing ways and means of ensuring that all schools welcome all children.

Other than Section 29, which has become cumbersome for schools and parents, the current legislation does not include provisions for resolving problems when they arise. At present in legislation we do not have any tailored measures that deal with different admission issues that can arise. For example, there is a difference between dealing with oversubscription which means that all simply cannot be accommodated in the school of first choice, and a situation where an individual child can find no place at all.

The Minister said that he will shortly bring to Government draft heads of the Education (Admission to School) Bill 2013. He said he will be publishing the Bill in draft form to allow a full public discussion, including inputs from the Oireachtas Joint Committee on Education and Social Protection and the education partners. He also plans to publish alongside the Bill the draft regulations that he plans to make when it is enacted. We do not want to intrude unnecessarily into how schools do business. The only policy objective is to ensure that the way in which schools decide on applications is more structured, fair and transparent.

The draft legislation will make it clear that some methods of controlling admissions will no longer be permitted. For example, the first-come, first-served basis for selecting students might look reasonable to some but it can mean that children who move to an area from other parts of

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the country, or from other countries, can be effectively excluded from schools that have more applicants than places. That situation, according to the Minister, cannot be allowed. The draft regulations will radically alter the operation of waiting lists, while accepting that schools need time to implement such change.

Schools will no longer be permitted to charge parents simply to apply for a place in a school. We have seen an over-use of preferential treatment for the children of past pupils, or more insidiously, the requirement for children and their parents to attend compulsory open days or be interviewed. These practices will be curtailed.

Any school that is faithful to the Education Act in providing maximum access will have nothing to fear from these proposals. He also wishes to clarify the point that schools will still be able to give priority to applicants whose siblings attend the school.

*4 o'clock*I thank the Deputy for raising this issue. It is the Minister's intention to publish the heads of a Bill and accompanying draft regulations to cover this area. These will then be referred to the Joint Committee on Education and Social Protection, while the various interest groups will be invited to make submissions on the Minister's proposals. We are at the start of the process and the Minister has set down the main tracks along which he hopes the discussion will run.

**Deputy Eoghan Murphy:** I thank the Minister for his response. He is correct that we do not want to unnecessarily intrude in the operation of schools, but I am glad he recognises that this issue needs to be addressed. I support his proposals in this regard. The sooner we can get the heads of the Bill drafted and the committee working on them, the better. Certain plans are welcome and I agree that it makes sense to allow siblings to go to the same school.

I raised this matter as a Topical Issue because this week the Irish Primary Principals' Network proposed a centralised admissions system. I was hoping to hear the Minister's response to that particular proposal and see if it would feed into his own framework. As he is not here, we are not able to probe that matter. I appreciate the time given to the debate by the Minister for Finance on his behalf.

### **Road Projects Status**

**Deputy Charlie McConalogue:** I am seeking an update on the actions taken by the Government so far in reconfirming its commitment to the A5 road project between Derry and Aghnacloy. As the Minister of State knows, this is a project that emanated from the St. Andrews Agreement in March 2007. The British and Irish Governments, with the Northern parties, agreed to joint-fund this project. Unfortunately, due to a court decision in the North last week, planning permission for the project has been overturned and the project will be delayed for up to a year. We need a reaction from the Irish Government, similar to the partnership-type approach in 2007, to liaise with the Northern Ireland Executive and the British Government to ensure the funding earmarked for the project continues to be assigned to it and that the Irish Government continues to maintain its commitment to the project, which was clear from the start.

Since the Government came into office, the commitment to the funding assigned to the project has been reduced. Once, we were co-funding the A5 road and were committed to having it in operation by the end of 2015. Now, the Government will give £25 million to the project in

2015, followed by another £25 million in 2016. It is essential that the Taoiseach, the Tánaiste and Minister for Foreign Affairs and Trade and the Minister for Transport, Tourism and Sport meet with their Northern counterparts to show an urgency and respect for the significance of this road to Donegal and the north west, as well as the east of Northern Ireland. They must re-emphasise the fact that they will work together to have this road finished.

The Northern Ireland Executive has committed to spending £100 million this year on the project, followed by another £100 million over the next two years. It is crucial that the Irish Government work with the Executive to ensure no question arises over the project's funding, which is essential for the completion of the road.

**Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy John Perry):** I am taking this matter on behalf of my colleague the Minister for Transport, Tourism and Sport.

Arising from the St. Andrews Agreement, the Irish Government gave a commitment to co-fund the construction of the A5 through Northern Ireland to Derry, thus improving access to Letterkenny and north Donegal. The Government's original commitment was to have been a contribution of £400 million for investment in roads infrastructure in Northern Ireland, which was included in a joint infrastructure investment package announced in March 2007 by the British and Irish Governments in the lead-up to the restoration of the Northern Ireland Executive.

As the planning process for the A5 progressed, the Irish Government contributed £22 million to the project. It had been envisaged, subject to the outcome of the planning process, that the balance of the Irish Government's contribution would be paid between 2013 and 2016 in accordance with the achievement of specified milestones during the construction phase of the project. However, following an extensive capital review conducted in 2011 by the Government and in view of the current economic position, it proved necessary to defer the funding commitment to the A5. At the North-South Ministerial Council plenary on 18 November 2011, it was noted that the provision of further funding by the Irish Government for the A5 road was being deferred but that the Government would provide £25 million per annum in 2015 and 2016 towards the project.

In February 2012, the Northern Ireland Minister for Regional Development announced the Northern Ireland Executive's plan for funding two significant sections of the A5, between Derry and Strabane and between Omagh and Ballygawley, at an estimated cost of £330 million, which included the £50 million to be provided by the Irish Government. Following publication of the necessary statutory orders in advance of construction, the decision by the Northern Ireland Minister for Regional Development to proceed with the two sections of the A5 was challenged by a group known as the Alternative A5 Alliance.

On 12 March 2013, the Northern Ireland High Court rejected the overwhelming majority of the applicants' grounds of challenge. One of the applicants' grounds was, however, upheld, as the judge held that an appropriate assessment under the habitats directive should have been carried out on the scheme. On that basis he indicated he was minded to quash the decision of the Minister to approve the scheme. At a further hearing on 8 April 2013, the judge confirmed he would quash the orders relating to the A5 scheme.

The outcome of the judicial review is disappointing, as we had hoped to see early progress on a project with so much potential for cross-Border co-operation and development of the

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north-west region. The project was discussed at the North-South Ministerial Council transport sectorial on 17 April and the Minister for Regional Development now plans to undertake the environmental assessment required under the habitats directive. This is a necessary first step to progress the project. The project will be delayed but the Irish Government remains committed to the A5 project, which it fully recognises as being of strategic importance to the north-west region and the island as a whole.

**Deputy Charlie McConalogue:** I thank the Minister for his response. I thought it might have included an explanation as to why the Minister for Transport, Tourism and Sport is not here to take this important Topical Issue. We have not heard any public comment from him, the Taoiseach or the Tánaiste since this project was delayed over a week ago. The least the Minister, Deputy Varadkar, could have done was to come to Chamber to address the issue. I did not table this question to hear the story of the A5 to date. I tabled it to hear what the Government intended to do to ensure the project stays on track. Its response - to put it over to the Northern Irish authorities to drive the project forward - is not good enough. We need to see the Irish Government step up to the plate and take on the partnership approach, which was key in ensuring the project got off the ground in the first place. Leaving the project to the Northern Ireland authorities alone is not good enough. Key to its future is the partnership approach remaining between the Irish and British Governments and the Northern Ireland parties. A serious situation has arisen because, as I outlined earlier, there are time conditions attached to the money the Northern Ireland Executive is spending on this project. In the past year £10 million a month was transferred to other projects because this project was being delayed. Unless we see the political will and effort to address the issue of this funding, which was coming primarily from Westminster, it will be further eroded.

Instead of a fob-off, which I believe I am getting from the Minister of State, I want to see real political resolve from the Taoiseach, the Tánaiste and the Minister for Transport, Tourism and Sport to ensure we are partners in this project and that it goes ahead. If a dual carriageway from Dublin to Cork had its planning permission overturned last week and there were time conditions attached to its funding, we would not see the Minister, Deputy Varadkar, not coming into the Dáil today or the lack of comment in the past week from the Taoiseach, the Tánaiste and the Minister.

There is political support for this project in Northern Ireland. I want to make sure that overt political support is given by our leaders. I accept that the financial commitment from the Irish Government is as stated last week, but I want to see a partnership approach and political leadership given by the Minister for Transport and our other political leaders to ensure we play our part in getting this important and crucial project for the future of the north west delivered.

**Deputy John Perry:** I am somewhat shocked by Deputy McConalogue's overall assessment of this issue. This viewpoint is representative of the Minister, Deputy Varadkar, who has clearly stated that the Government is committed. We cannot interfere with the court in Belfast. It has made a ruling and the project has been deferred. Does the Deputy expect the Irish Government to overturn that decision? He should come back into the real world. The Deputy must remember that in 2007 the country was awash with money. We know what we inherited from the previous Government. We should call a spade a spade. This Government is committed to the project and, with limited resources, is making the funding agreed at the last Council meeting available. Is the Deputy implying that that is not the case? Is he implying that we can interfere with the court in Belfast?

**Deputy Charlie McConalogue:** No. I am saying we must show leadership and commitment by being partners in this project.

**Deputy John Perry:** There is no doubt about leadership in this country; it is quite definitive compared to that of the previous leader.

**Deputy Charlie McConalogue:** Can the Minister keep to the important point?

**Deputy John Perry:** I will keep to the point, but the Deputy made a point about leadership. There is no doubt about leadership in this matter. There is no ambiguity, and the Taoiseach has stated that categorically. We have committed the money but we cannot interfere with the planning process in Northern Ireland. When that is resolved the Government's commitment of financial support will still be in place. I am speaking directly on behalf of the Minister, Deputy Varadkar, who is one of the most hard-working Ministers in this Government. It is not an indication of lack of interest that he is not here. He apologises that he cannot be here, but that is the clear message the Deputy will get from him. I have no doubt about this issue. The Government is clear on it. The Taoiseach is clear on the commitment given by the Government and the Deputy is being political in coming in here and insinuating something different. I am more than surprised by the Deputy's attitude with regard to the political certainty surrounding this issue. We do not interfere - nor does the Northern Ireland Executive - with-----

**Deputy Charlie McConalogue:** It is not interference. It is a partnership approach and we need to see the political priority being given-----

**Deputy John Perry:** There is no partnership approach when it comes to the habitats directive. This is-----

**Deputy Charlie McConalogue:** There is in terms of the overall project.

**Deputy John Perry:** There is a commitment. At the last ministerial meeting there was an agreement. The reply clearly states: "The project will be delayed but the Irish Government remains committed to the A5 project which it fully recognises is of strategic importance." That is the Government's commitment. We have committed the money. That is an extraordinary commitment in these difficult times with the legacy Fianna Fáil left us, which is no money for anything.

### **Parking Charges**

**Deputy Thomas P. Broughan:** I thank the Minister of State for coming to the House. I would have preferred to see the Minister, Deputy Coveney, but I am aware the Minister of State has some knowledge of and interest in this matter.

This weekend the Howth business and wider community will host the Dublin Bay Prawn Festival, which has an outstanding programme of activities including food tasting, cookery demonstrations, live music starting tonight with The Luke Kelly Experience in the Abbey Tavern, walking tours, fireworks and children's activities. The Acting Chairman is welcome to come over from his southern fastness and visit us out in the peninsula for this annual festival. Unfortunately, the Ministers, Deputy Coveney and Deputy Bruton, are planning to spoil all the fun. There has been a tremendous effort - as the Minister of State is aware, because he attended our chamber of commerce - on the part of the business and community organisation, in hosting

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events such as the prawn festival and many other activities, to develop, maintain and expand leisure activities, and particularly marine tourism, in the entire peninsula area.

People are devastated by the proposal to introduce paid parking charges in the harbour. As the Minister will be aware from his portfolio, local businesses are struggling to keep people employed, including one of the businesses on the pier, Doran's, which employs 62 workers. Many of the jobs in the wider restaurant business are threatened if the two Ministers go ahead with this proposal. As the Acting Chairman is aware, Howth is a unique tourist and leisure destination for all of Dublin and the wider Leinster region, but visitors will be discouraged from visiting the peninsula if these charges are introduced.

I first raised this matter with the Minister, Deputy Coveney, last autumn. In the intervening period I have been contacted by hundreds of local residents, neighbours and community and sporting organisations which are bitterly opposed to this proposal because they believe it will inevitably lead to paid parking through the town and across the peninsula. Incredibly, the Minister, Deputy Coveney, has refused to meet some of the key stakeholders and, as the Minister of State is aware, he launched this proposal without meeting anybody. The Minister told me in reply to a parliamentary question recently that he has received a good deal of correspondence from a wide range of harbour users and workers and the local community. He also mentioned the website, which is *howthharbourparking.webs.com*. All of our community leaders and groups in Howth are more than willing to meet the Minister of State and the senior Minister but they want a commitment today that the Department will engage in a proper consultation process, examine the economics of this proposal and determine, as we see clearly, that it is ill-judged and should be withdrawn.

There was some indication in previous replies from the Minister that the Garda had been contacted about parking and safety issues in the harbour, but I was assured by our local superintendent that no such complaint was made and no such problem raised.

One of the extraordinary aspects of this saga is that of the six fishery harbours, only Howth has been singled out for a paid parking regime. I am aware there are some charges in Rossaveal and Dingle but the local businesses in the Rossaveal area are located outside the parking area of the harbour. The users of Dingle have a code that allows them walk through and not pay. The key sister fishery harbours of Howth, two of which I know very well - Castletown and Killybegs - have no such regime and they will not have, as the Minister knows from visiting those areas, because it would not be tolerated. As Mr. Paul Brady, president of our Howth Sutton Baldoyle Chamber of Commerce, reminded me in one of his excellent briefings on this issue, the introduction of paid charges has resulted in business closures at Dún Laoghaire Harbour.

The Minister has told me that the annual income to the Department from Howth is €766,000, €182,000 of which is direct income from the fishing industry. The bulk of the remainder comes from restaurants, leisure and marine businesses, including our world-famous yacht club. Those figures given by the Minister, Deputy Coveney, some months ago confirm the vital importance of the marine leisure sector to the economic vibrancy of Howth Harbour, yet there is no indication that the Department of Agriculture, Food and the Marine has carried out even a basic cost-benefit analysis of the costings and the amount of money that would be lost were this proposal to go ahead.

There has been a total failure of public policy formation in this matter. The importance of the Howth Peninsula and Howth town and harbour to the leisure activities of a wide tranche of

north Dublin and the wider north Leinster region has been ignored. I ask that the Minister, Deputy Coveney, withdraw the proposal. The Minister of State visited our chamber of commerce and made an excellent presentation on developing businesses in the Howth-Sutton-Baldoyle area. What we should be looking at are proactive ways, such as those he referred to that day, in which we can promote business, rather than destroy it. Residents of Howth are delighted to see visitors arrive, often in their tens of thousands on fine weekends, but this proposal would, unfortunately, be disastrous for them.

**Deputy John Perry:** I enjoyed my visit to Howth very much at the invitation of the chamber of commerce and I compliment it on the fantastic facility there, the beautiful region and the whole opportunity for business. The Government is very committed to small businesses, which are the backbone of the Irish economy, in particular, restaurants and pubs. We fully recognise that the 200,000 small companies and businesses are the engine that will drive our economy forward. This is the reason we are so concerned and have put so many initiatives in place to support business.

I am taking this issue on behalf of the Minister, Deputy Coveney. The House will be aware that the Minister has been considering introducing a charge for parking facilities within Howth fishery harbour centre for some time. This is being done so as to assist in operating Howth fishery harbour centre on a financially sound basis, to provide a source of revenue for further investments in the fishery harbour centre facilities, as part of an overall traffic management plan to bring order to what has become a source of concern to the harbour authorities and the emergency services and in order to maximise the return on this significant State asset.

Howth fishery harbour centre is first and foremost a working fishery harbour, one of six operated by the State, each of whose primary purpose is to provide facilities and services for the fishing industry and fisheries-related activities. Funding for operating, management and development costs in the fishery harbours is ring-fenced in the fishery harbour centres fund, which is the only source of revenue available for that purpose. Capital investment in the fishery harbour centres in recent years has underpinned both fisheries activities and the harbour's expanding use for leisure and marine tourism and other maritime enterprises. The House will appreciate that, in the current economic climate, the State must be fully committed to maximising the return on that investment. Moreover, the Department is required to ensure that the fishery harbour centres are run on a financially-sound basis. Parking fees for the 500-plus parking spaces within the boundaries of the harbour would assist in balancing the books and provide funding for improvements that would not otherwise be possible.

There is a wide range of users of Howth fishery harbour, business customers, yacht club members, sport fishermen, DART users, tourists, walkers and many others. All of these users need to use the parking facilities of Howth fishery harbour centre. This combination of uses and the wide range of users of the harbour brings its own inherent dangers, and safety must be a paramount consideration. There have been a number of occasions where the volume of cars in the harbour and the resultant pressure on parking has led to a situation where emergency access has been seriously compromised. The harbour authorities have received specific complaints from elements of the emergency services in that regard, but, fortunately, no serious incident has arisen yet.

Department officials have consulted with officials of Fingal County Council and with An Garda Síochána about this and other related matters and the Department's engineers have met some of the harbour's business tenants individually about new traffic management and road

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markings, etc. The Department officials also attended the harbour users forum in February, where pay-parking was on the agenda and there they heard the views of the harbour users at first hand. There was widespread public consultation when pay-parking at Howth fishery harbour centre was originally examined in detail in 2007, in conjunction with Fingal County Council. All of the various views expressed and submissions made then are still available and the Minister is well aware of the concerns and has acknowledged them.

The Minister has received new correspondence on the matter from a wide range of harbour users and he is reviewing all aspects of the matter at present. He assures the House that the views of the various harbour users, the potential earnings, the possible impact on the harbour businesses and recreational users, the impact on the local economy and local jobs and the impact on overall traffic management within the fishery harbour are all matters that he will take into account in coming to a decision. He also assures the House and all of the harbour users in Howth that he is committed to continuing to invest in the development of Howth for the future.

**Deputy Thomas P. Broughan:** The Minister of State has said there have been a number of occasions where the volume of cars in the harbour led to a situation where emergency access had been seriously compromised. I do not accept that. Nobody has complained to me about that and I have not heard of it. I believe it is an issue to do with the management of the harbour and the current management regime, which some people think needs to be drastically reformed so that it operates in the interest of the users of the harbour, visitors and local residents. There is an issue in that regard. I checked with An Garda Síochána and with the local superintendent in Raheny and I was told there had been no complaint nor had a recommendation been made in regard to this. If there was a health and safety issue with regard to parking, it would be at Sutton Cross, because of the significant volume of people - up to 20,000 - trying to drive onto the Howth peninsula on a very sunny Sunday.

It is astonishing that we have not had a cost benefit analysis of this proposal and that the Minister of State could not tell me the likely impact of a particular regime of charges, or what effect that would have on the number of visitors visiting the peninsula when the weather is fine. One of the astonishing things about the Howth peninsula is that visitors, including overseas visitors, are often advised to visit this part of Dublin. These visitors will be gravely discouraged by the proposal.

The Minister of State did not address the issue of other fishery harbours. I know Castletownbere harbour particularly well and Killybegs and I do not believe it would ever be possible that such a regime would be introduced in those harbours. That will not happen. The Minister of State will remember that in the past he held a brief regarding this area and he is aware of the quality of the fishing industry in both of those harbours. We need to see the basic cost-benefit figures on this proposal, but I believe that however we look at it, they will not stack up and the proposal should be abandoned. I urge the Minister of State to talk to the Minister, Deputy Coveney, and to talk to the Minister for Jobs, Enterprise and Innovation, Deputy Bruton, who aspires to representing the Howth area some day. He does not represent it currently, but perhaps he will stand for it in the next election. It would be disastrous if he permitted the Minister, Deputy Coveney, to introduce this regime.

**Deputy John Perry:** I have no doubt that based on the skills and competence of the Minister, Deputy Bruton, when he decides to stand for that area the people will recognise his significant talent and ability and will elect him to represent the area.

**Deputy Thomas P. Broughan:** I am now operating in his old territory.

**Deputy John Perry:** I do not see him having any difficulty in that regard in any sense. However, business is business when it comes to State assets and our 68 ports. I know the potential of Rossaveal, Killybegs and Castletownbere very well. In regard to Howth, obviously the 500 car-parking spaces are in a premium location for business. When we go to any town or business centre, parking is generally reasonably priced and is value for money and provides safety for cars. This is reassuring. Wherever one goes, it is hard to expect to get everything for free. The issue also relates to access for emergency services.

**Deputy Thomas P. Broughan:** Parking in out of town shopping centres is free.

**Deputy John Perry:** Deputy Broughan must agree that many people use free parking to park for the day. This is not good for business. The ideal for a business is that somebody comes in to do their business and only parks for an hour or two, leaving the parking space free then for someone else. However, if somebody parks for the whole day because it is free, that is not good for business. If we were to do due diligence and a business EIS on this, we would want to get people in and out and allow new cars in. This is what we want from the point of view of business. If I were a business operator in Howth, I would welcome a well-managed system that would allow better use of the car park rather than a system that allowed people to hog the parking for the whole day for free. From a business point of view, if I was a restaurant owner in Howth, I would not like to think a car was taking up a parking place all day, preventing my customer from coming in and having lunch. We should look at the issue from the point of view of business and value for money.

**Deputy Thomas P. Broughan:** The Deputy does not know the area. I would not presume to talk about Enniscrone or Sligo.

**Deputy John Perry:** I would not go down that road. The Deputy would certainly lose that argument.

**Deputy Thomas P. Broughan:** The Minister of State is making an argument he is not in a position to make.

**Deputy John Perry:** I believe this is a good State investment. The money is ring-fenced and will go back into the facility's infrastructure. The Minister has taken submissions on this from all the fishery harbours and I have no doubt he will take the Deputy's opinion on board.

**Deputy Thomas P. Broughan:** He got it wrong in the first instance.

**Deputy John Perry:** I have no doubt he will take it on board. That is my overview from being in Ros a' Mhíl, Castletownbere and Killybegs. These State assets have to stand on their own feet. Value for money has to be provided.

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## Priority Questions

### National Cultural Institutions

1. **Deputy Seán Ó Fearghaíl** asked the Minister for Arts, Heritage and the Gaeltacht the measures he is taking to audit and secure valuable artefacts and materials held by the State following recent high profile robberies; and if he will make a statement on the matter. [19540/13]

**Minister for Arts, Heritage and the Gaeltacht (Deputy Jimmy Deenihan):** The national cultural institutions under the aegis of my Department manage important collections of art and other artefacts on behalf of the State. While my Department provides funding to these institutions, the board of each institution is responsible for all operational matters including security arrangements and procedures. I do not have a statutory function in respect of such matters. Notwithstanding this, I am aware that the security of the collections is routinely kept under review by all of the institutions. My Department maintains appropriate contact with them on their security measures and the arrangements in place to ensure the protection of the collections in their care. My Department has written to all national cultural institutions twice so far in 2013 regarding security matters.

I am happy to give an update in respect of items in the ownership of my Department. As the Deputy will know, the Garda Síochána has been investigating the loss of a number of items held in private storage on behalf of the Department of Arts, Heritage and the Gaeltacht. Earlier today, gardaí assisted by members from the National Bureau of Criminal Investigation made an arrest on foot of the theft of paintings and other items from a storage facility in Limerick. A man has been taken to Shannon Garda station, where he is being detained under section 4 of the Criminal Justice Act 1984. The Garda has confirmed today that further planned searches are being carried out in the Limerick area following this arrest. Deputies will appreciate that as this is an active investigation, I cannot comment on operational matters which are fully within the remit of the Garda. They will further appreciate that when an active investigation is under way, we must all be careful and judicious in our comments and actions. Nothing that is said or done should frustrate the ongoing investigation in any way. This is an extremely serious matter. I have instructed my Department to continue to give every possible assistance to the Garda to help to return these items to the State.

**Deputy Seán Ó Fearghaíl:** I commend the Minister on his response. I note that the gardaí have made an arrest in respect of one of these thefts. Two things arise. First, there is general concern among the public and the Members of this House that twice in the last 12 months, artefacts have been stolen from what we believed to be secure locations that had been acquired by the State. I suppose it is understandable that we would require assurances from the Minister that steps have been taken to ensure these valuable artefacts are safe. The second point relates to the fact that so many of our artefacts are in storage. When we recently discussed material handed over from a house in County Kerry that was under refurbishment, the Minister gave us some very good and plausible explanations. When one considers the number of locations throughout the State where these artefacts could be made available to the public in a safe manner in which people could have confidence, one wonders why so many of our artefacts remain in storage rather than being put on public display so that they may be enjoyed by the public, which is the purpose for which they were supplied to the State in the first instance. I would be grateful if the Minister could have regard to these two points in his response.

**Deputy Jimmy Deenihan:** The reference I made to Limerick and Shannon related to artefacts that were taken some time ago. I understand the theft in question took place long before I took up this office. We are dealing with items that were taken more recently - on Wednesday, 17 April last - from the collections resource centre in Swords. The Garda is investigating the matter. We have issued two communiqués to the national cultural institutions, calling on them to review their security arrangements, already this year. This is ongoing. A review of the National Museum, the Natural History Museum and the Collins Barracks museum has been carried out in conjunction with the Garda Síochána. A review of the Swords facility was due to be carried out next month. I am confident that the arrangements which are in place at the moment will protect the artefacts we have. We have to be vigilant, obviously, because we are dealing with a new and more sophisticated type of criminal. The eight rhinoceros horns stolen in Swords last week were probably taken to supply the illegal trade in powdered horn used in traditional medicines in the Far East, for example. Apparently, there is huge demand in the Far East for powdered horn. I understand the horns stolen last week could achieve a street price of up to €500,000. It is obvious that they were specifically targeted. The authorities at the Natural History Museum removed them from display because they were conscious of the security issues involved. The security arrangements are kept under review. I acknowledge again the work of the Garda Síochána in the case of the artefacts and objects that were stolen from Killarney House. The Garda is making considerable progress.

**Deputy Seán Ó Fearghail:** I wish I could share the Minister's optimism about the security that is in place. When I read about what happened on Balheary Road, I learned that the sole security man on the premises was tied up and that the thieves spent an hour on the premises before making off with the rhinoceros horns. Thank God nobody in this House needs the particular aphrodisiacs that are apparently produced from these horns.

**Deputy Maureen O'Sullivan:** Is the Deputy sure?

**Deputy Seán Ó Fearghail:** Nonetheless, it is frightful to think they could be stolen in such a manner. The Minister omitted to deal with the point I raised about artefacts that are out of sight. Why are we not attempting to maximise the number of artefacts that can be made available to the public, not just in the Dublin cultural institutions but throughout the country?

**Deputy Jimmy Deenihan:** It comes back to the issue of security. We do not have enough secure spaces in this country to guarantee that the artefacts would be secure if they were put on display. That is the reason.

### **Líomhaintí Drochúsáide**

2. D'fhiafraigh **Deputy Peadar Tóibín** den an Aire Ealaíon, Oidhreacht agus Gaeltachta maidir le líomhaintí atá déanta le déanaí i gcoinne duine (sonraí tugtha), an ndéanfaidh sé ráiteas maidir le cén déileáil a bhí ag a Roinn, nó ag a réamhtheachtaí, leis an duine sin, an míneoidh sé cén saghas déileála a bhí ann, an raibh aon teagmháil ag an duine le daoine óga uair ar bith le linn na déileála seo, an raibh aon eolas ag an Roinn nó ag a cuid oifigeach faoi aon líomhain i gcoinne an duine agus má bhí, cén gníomh a tógadh mar thoradh air sin agus an bhfuil an Roinn tar éis athbhreithniú a dhéanamh ar a cuid polasaithe um chosaint leanaí de bharr na líomhaintí seo. [19566/13]

**Minister of State at the Department of Arts, Heritage and the Gaeltacht (Deputy Din-**

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**ny McGinley):** Ba mhaith liom a rá ag an tús go bhfuil mé iontach buartha faoi na scéalta ar fad atá tagtha chun cinn sna meáin maidir leis na líomhaintí atá luaite ag an Teachta. Is cinnte go ngeallann na líomhaintí seo faoi mhí-úsáid ar pháistí san am atá caite ar gach duine. Tá mé cinnte go dtuigfidh an Teachta go bhfuil teorainn leis an méid gur féidir liom a rá ag an bpointe seo. Ní mór dúinn, ar ndóigh, a bheith airdeallach ach go háirithe ar chás na ndaoine sin a tháinig amach go poiblí faoi na cúrsaí seo le roinnt seachtainí anuas. Is féidir liom a rá go léiríonn na taifid atá ar fáil i mo Roinnse gur tugadh líomhaintí faoin duine atá luaite ag an Teachta chun aird an Ard-Rúnaí sa Roinn Ealaíon, Oidhreacht, Gaeltachta agus Oileán, mar a bhí, i mí Feabhra 1998. Ghlac an tArd-Rúnaí céimeanna gan mhoill chun comhairle a glacadh leis an Roinn Sláinte agus Leanaí agus chun a chinntiú go gcuirfí an cheist i lámha an Gharda Síochána. Mar is eol don Teachta, ar ndóigh, thug na Gardaí ina dhiaidh sin faoi na líomhaintí a fhiosrú.

Bhí an té a bhí luaite sna líomhaintí bainteach thar blianta fada le heagraíochtaí Gaeilge éagsúla a raibh baint acu le himeachtaí teanga-lárnaithe, cúrsaí samhraidh agus clubanna óige ina measc. Nuair a cuireadh ar an eolas é faoi na líomhaintí, d'iarr agus fuair an tArd-Rúnaí ag an am deimhnithe nach raibh an duine a bhí i gceist ag plé a thuilleadh le coláistí Gaeilge ná le foghlaimeoirí Gaeilge laistigh de réimse feidhme na Roinne. Is féidir liom a rá freisin, i bhfianaise na dtuairiscí sna meáin le déanaí, go bhfuil teagmháil déanta ag Ard-Rúnaí mo Roinne le stiúrthóir náisiúnta na seirbhísí do pháistí agus teaghlaigh i bhFeidhmeannacht na Seirbhíse Sláinte, HSE, le gur féidir le haon duine gur mhaith leis nó léi teacht ar an tseirbhís chomhairleoireachta atá ar fáil ón HSE sin a dhéanamh.

Maidir leis na Coláistí Gaeilge féin, ba mhaith liom a rá go bhfuil gach iarracht á déanamh ag mo Roinnse lena chinntiú nach féidir lena leithéid tarlú anois. Mar shampla: bíonn ar ghach ball os cionn 16 bliain d'aois de na teaghlaigh lena mbíonn na foghlaimeoirí Gaeilge ar iostas leo scagtha le láraonad grinnfhiosrúcháin an Gharda Síochána roimh ré;

#### *Eolas breise nár tugadh ar urlár an Tí*

bíonn na múinteoirí agus gach duine eile sna Coláistí a d'fhéadfadh bheith i dteagmháil le foghlaimeoirí scagtha mar an gcéanna i gcomhar le CONCOS - scátheagraíocht na gColáistí Samhraidh; agus bíonn ar údarais gach coláistí polasaí scríofa a bheith acu faoi na nithe seo, mar aon le ráiteas sláinte agus sábháilteachta agus duine ainmnithe go hoifigiúil mar Oifigeach Sláinte agus Sábháilteachta.

Ní mór na forálacha cuí ó na treoirlínte Tús Áite do Leanaí, Children First, a bheith i bhfeidhm i ngníomhaíochtaí uile gach choláiste agus sna tithe lóistín sa Ghaeltacht. Ní miste a lua gur eagraigh CONCOS cúrsaí do na coláistí gaeilge le déanaí chun breis eolais a thabhairt dóibh faoi Tús Áite do Leanaí agus an fhreagracht atá ar na coláistí maidir le slánchoimeád páistí. Ar ndóigh, leanfaidh mo Roinnse ag tabhairt tacaíochta do ghníomhaíochtaí den chineál seo.

Maidir le nósanna imeachta mo Roinnse i ndáil le cosaint leanaí, is féidir liom a rá leis an Teachta go bhfuil oifigigh de chuid mo Roinne ag feidhmiú mar ionadaithe ar an ngrúpa idir-rannach ar Tús Áite do Leanaí agus bíonn teagmháil ar bhonn rialta idir iad féin agus an Roinn Leanaí agus Gnóthaí Óige maidir le ceisteanna a bhaineann le cosaint leanaí. Tá polasaí cosaint leanaí agus plean forfheidhmithe rannach ag mo Roinnse a bhfuil feidhm aige, de réir mar is cuí, ar fud ghníomhaíochtaí uile mo Roinne agus tá sé seo curtha ar fáil don fhoireann uile agus tá sé bunaithe ar Tús Áite do Leanaí: Treoir Náisiúnta um Chosaint agus Leas Leanaí, 2011. Leanfaidh coiste maoirseachta Tús Áite do Leanaí mo Roinnse ag déanamh monatóireachta

agus athbhreithnithe air ar bhonn rialta.

**Deputy Peadar Tóibín:** D'fhreastal mé ar Choláiste na bhFiann mé féin nuair a bhí mé i mo mhac léinn sna 1980s agus 1990s. Bhain mé an-taitneamh as an am a chaith mé sa choláiste sin, d'fhoghlaim mé a lán agus ní fhaca mé ariamh aon droch cleachtadh ar siúl ann.

Chualamar go léir na liamhaintí uafásacha gránna faoi Domhnall Ó Lubhlaí agus chuir na liamhaintí sin déistin orainn go léir. Déanaim comhbhrón leis na híospartaigh go léir agus molaim a gcrógacht as teacht amach leis na líomhaintí seo. Tá athbhreithniú ag dul ar aghaidh leis An Garda Síochána, an HSE agus an Roinn Oideachais agus Scileanna. Tá a fhios againn go raibh caidreamh idir an fear seo agus Roinn na Gaeltachta. Mhainigh an Roinn Coláiste na bhFiann agus Gael Linn ar feadh blianta agus mar sin, osclaíonn sin a lán ceisteanna.

An bhfuil an tAire Stáit chun athbhreithniú no imscrúdú a chur ar bun sa Roinn maidir leis an caidreamh a bhí an fear sin agus an Roinn ag an am? Chualamar gur shocraigh Gael Linn cás a bhain leis an fear sin taobh amuigh den chúirt. Ar úsáideadh airgead na Roinne chun airgead a thabhairt don íospartach sin ag an am? Is ceist iontach thábhachtach í sin. Tuairiscítear freisin go ndúirt an Teachta Éamon Ó Cuív, iar Aire Roinn na Gaeltachta, go bhfuair sé faisnéis faoi chás mí-úsáide agus gur thug sé an faisnéis sin do rúnaí sa Roinn. An bhfuil aon taifead den fhaisnéis sin sa Roinn?

**Deputy Dinny McGinley:** Is é an taifead atá sa Roinn ná an méid a cuireadh in iúl don iar rúnaí i 1998. Mar a dúirt mé, chuaigh an t-iar rúnaí chuig an tseirbhís leanaí, An Roinn Leanaí agus Gnóthaí Óige mar atá anois, agus ó sin chuig na gardaí leis na liamhaintí sin a leanúint ar aghaidh. Maidir le íocaíocht, ardaíodh an cheist sin sna meáin. Ba mhaith liom a rá go soiléir nár íoc mo Roinn aon chúiteamh le haon duine a d'fhulaing mí-úsáid i gcoláiste Gaeilge agus níor íocadh aon chúnamh thar ceann na Roinne le aon eagraíocht eile ar chúis den chineál seo.

Maidir le nósanna imeachta mo Roinne i ndáil le cosaint leanaí, is féidir liom a rá go bhfuil oifigigh de chuid mo Roinne ag feidhmiú mar ionadaithe ar an ngrúpa idir-rannach ar Tús Áite do Leanaí agus bíonn teagmháil ar bhonn rialta idir iad féin agus an Roinn Leanaí agus Gnóthaí Óige maidir le ceisteanna a bhaineann le cosaint leanaí. Tá polasaí cosaint leanaí agus plean forfheidhmithe rannach ag mo Roinnse a bhfuil feidhm aige, de réir mar is cuí, ar fud ghníomhaíochtaí uile mo Roinne agus tá sé seo curtha ar fáil don fhoireann uile.

Tá an-obair á déanamh freisin ag CONCOS, eagrais na gcoláistí samhraidh, ag cur cúrsaí ar fáil dos na daoine a bhíonn baint acu le daoine óga. Coicís ó shin, bhí mé i gConamara agus d'fhéach mé isteach ar cheann acu.

**Deputy Peadar Tóibín:** An bhfuil an tAire Stáit sásta nár íoc aon eagraíocht cosúil le Gael Linn nó Coláiste na bhFiann aon airgead a fuair siad ón Roinn do íospáirtigh? An bhfuil sé lán-sásta gur chomhlíon an Roinn na teoracha maidir le cúram páistí ag an am? An ndeachaigh na gardaí i dteagmháil leis an Roinn ar chor ar bith chun cás ar bith a fhiosrú, seachas an ceann i 1998? An bhfuil an tAire Stáit chun athbhreithniú nó imscrúdú a dhéanamh sa Roinn faoi seo?

**Deputy Dinny McGinley:** Arís, ba mhaith liom a rá nár íoc an Roinn aon chúiteamh le haon eagraíocht nó níor íoc aon eagraíocht aon chúiteamh thar cheann na Roinne do na híospartaigh atá i gceist ag an Teachta. Nílím ag séanadh freagrachta ar aon bhealach. Tá na liamhaintí atá déanta ag trácht ar rud a tharla tamall fada ó shin, agus mar a dúirt mé, nuair a chuireadh é seo in iúl don rúnaí a bhí ann, chuaigh sé chuig an Roinn ar a raibh an fhreagracht, chuig an bord sláinte agus chuig na gardaí.

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**Deputy Peadar Tóibín:** An mbeidh athbhreithniú á dhéanamh ar seo sa Roinn?

### **National Monuments**

3. **Deputy Maureen O’Sullivan** asked the Minister for Arts, Heritage and the Gaeltacht in view of fact that the State undertook the preservation of the National Monument 14-17 Moore Street, if his attention has been drawn to the deteriorating condition of the monument; his plans to prevent further dereliction and dilapidation; and if he will support an immediate independent assessment of the condition of these historic buildings. [19567/13]

**Deputy Jimmy Deenihan:** Nos. 14 to 17 Moore Street are the subject of a preservation order under the National Monuments Acts. The effect of the preservation order is that any works affecting these properties require the consent of the Minister for Arts, Heritage and the Gaeltacht, under section 14 of the National Monuments Act 1930, as amended. The land-owner’s application to my Department for consent to proposals that include the provision of a commemorative centre to the 1916 Rising and its leaders on the national monument site is being examined.

As part of the consent process, the applicant was asked by my Department to provide an environmental impact statement in regard to the proposals for the national monument site. The public consultation period in regard to the environmental impact statement was extended because of the requirement for the applicant to publish a fresh public notice when the original notice was found to be deficient. The extended period ended yesterday. Following completion of the consultation procedures, I now intend to proceed as quickly as possible to undertake a formal environmental impact assessment, including consideration of the submissions received, and then to make a decision on the consent application itself.

My function in regard to the upkeep or maintenance of the monument, which is privately owned, is confined to considering any related proposals by the owners for which my consent must be sought under the National Monuments Acts. The monument buildings are included in the record of protected structures, maintained by Dublin City Council under the Planning Acts, which gives the city council specific powers of intervention that are not available to me. However, from time to time, my consent has been sought and given under the National Monuments Acts for necessary maintenance and repairs. This includes, most recently, essential stabilisation work on the building facades.

**Deputy Maureen O’Sullivan:** Nos. 14 to 17 are the national monument and they are only still standing by the skin of their teeth. The Minister knows that what the Save Moore Street group, the relatives and I would like is to see that area as an historic quarter. If we look at the Venice Charter and apply that to Nos. 14 to 17, Moore Street, we can see that the monument there is more than a stand-alone entity. It has to be and is linked to the surrounding environment, and part of that environment is the historic laneways and terrace of Moore Street, which is also linked with the street trading tradition that is synonymous with Dublin and with the businesses there. It is interesting that there is a new and expanding restaurant business on Moore Street, the Paris Bakery, which is doing extremely well.

It is also linked to what could be the potential for housing while maintaining the facade of the terrace. The remit of an organisation like Habitat for Humanity is to go in and take over derelict buildings, so there is huge potential for the whole area to be preserved as a historic

quarter in a way that is fitting and acknowledges the heroism and contribution of the men and women of 1916.

The point is that, at the moment, Nos. 14 to 17 are in a dilapidated state and that state is worsening all the time. The developer is failing in its duty to maintain the monument. There is an onus on the Minister to take Nos. 14-17 into State care under the auspices of the National Museum. There are calls for an independent assessment of the site. This has been going on for a while. An archaeological report has been produced by the National Museum which we are still waiting to see.

The developer wants to develop the site. Nos 14-17 are included in that but the developer is in NAMA. Has the Minister had any discussions or is he planning to hold any discussions with the Minister for Finance? How can we find out about the NAMA accounts? I have been trying to discover what they are applied for. If they are in NAMA, how will they do this work? There are many dots that must be joined up but they seem to be getting further and further apart as time goes by.

**Deputy Jimmy Deenihan:** I am sure the Deputy is very much aware that it is Dublin City Council that has responsibility for the structure and stabilisation of the buildings. All I am asked for is my consent. In this case, the developer asked me for my consent in respect of seeing whether the works are suitable for that site. The Deputy should direct her request to Dublin City Council with regard to the fabric and structure of the buildings. It is very important to point that out. I repeat that I have been asked to adjudicate on whether the proposal for Nos. 14 to 17 is suitable for the national monuments site. All of the consultation has taken place and I will be making an assessment of the statement submitted by the landowner and observations by Dublin City Council and others. I will be making that assessment and I assure the Deputy that I want to reach that determination as soon as possible. I hope that this will be before we end this Dáil term in July.

**Deputy Maureen O'Sullivan:** I acknowledge the role of Dublin City Council with regard to this and still cannot believe how it managed to sell that area to a developer. I have said so more than once. Can the Minister refuse consent to buildings in the vicinity of the national monument? Can the developer build over, under and around it in a way that is totally inappropriate to the monument?

The environmental impact statement is not available online. I am conscious of Fr. Joe Mallin who I understand is the only surviving direct relative of someone who fought in the Easter Rising. He is in his nineties and is a priest in Hong Kong so how could he and others outside the country possibly have an input into the environmental impact statement if it is not online?

**Deputy Jimmy Deenihan:** This was made available at Dublin City Council and my Department so it was available to people and I am sure it could have been delivered to Fr. Mallin by post or express mail. The fact is that the consultations are now over, it is time to make a decision and I am prepared to do that as soon as possible.

### **Seirbhís Farantóireachta**

4. D'fhiafraigh **Deputy Michael P. Kitt** den an Aire Ealaíon, Oidhreachta agus Gaeltachta an bhfuil sé sásta leis an tseirbhís farantóireachta agus an aersheirbhís chuig Oileáin Árann; cé

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na pleananna atá aige chun na seirbhísí sin a fheabhsú; agus an ndéanfaidh sé ráiteas ina thaobh. [19541/13]

**Deputy Dinny McGinley:** Tá thart ar 60% den soláthar atá ar fáil do mo Roinn do sheirbhísí iompair á chaitheamh ar Oileáin Árann, áit a bhfuil 43% de dhaonra na n-oileán ag maireachtáil. Anuraidh, d'aontaigh mo Roinn conradh nua farantóireachta paisinéirí d'Inis Meáin agus Inis Oírr don tréimhse cúig bliana suas go dtí Deireadh Fómhair 2017, mar aon le conradh nua lastas don trí oileán a chlúdóidh an tréimhse cúig bliana suas go dtí 31 Nollaig 2017. Tá mo Roinn, i láthair na huair, ag lorg tairiscintí ar son seirbhís aeir d'Oileáin Árann don tréimhse Deireadh Fómhair 2013 go dtí Meán Fómhair 2014. Tá thart ar 60% den soláthar atá ar fáil do mo Roinn do sheirbhísí iompair á chaitheamh ar Oileáin Árann, áit a bhfuil 43% de dhaonra na n-oileán ag maireachtáil. Anuraidh, d'aontaigh mo Roinn conradh nua farantóireachta paisinéirí d'Inis Meáin agus Inis Oírr don tréimhse cúig bliana suas go dtí Deireadh Fómhair 2017, mar aon le conradh nua lastas don trí oileán a chlúdóidh an tréimhse cúig bliana suas go dtí 31 Nollaig 2017. Tá mo Roinn, i láthair na huair, ag lorg tairiscintí ar son seirbhís aeir d'Oileáin Árann don tréimhse Deireadh Fómhair 2013 go dtí Meán Fómhair 2014. Ar an drochuair, ní bhfuair mo Roinn aon tairiscint le haghaidh seirbhís farantóireachta paisinéirí idir Inis Mór agus an mórthír. Bhí plé ag mo Roinn leis an bhfarantóir a bhí ag cur na seirbhíse ar fáil ach theip uirthi teacht ar chomhaontú leis de bharr an méadú ollmhór a bhí a lorg aige sa bhfóirdheantas ar sheirbhís a thuigtear a bheith brabúsach cheana féin. Tuigtear go bhfuil an farantóir ag leanúint leis an seirbhís céanna gan chúnamh Stáit mar go bhfuil inmharthanacht tráchtála ann agus go bhfuil i gceist aige é sin a dhéanamh go leanúnach.

**Deputy Michael P. Kitt:** Cad é an costas a bhaineann le síniú conartha? Níl conradh ann faoi láthair. Cad é an costas do na hoileánaigh a úsáideann an tseirbhís seo? Tá airgead ar fáil don aersheirbhís go dtí na hoileán go dtí mí na Lúnasa seo chugainn. Cé mhéad airgead atá i gceist? Nach fearr go mbeidh aersheirbhís cinnte, dearfach ann do na hoileáin sna blianta amach romhainn seachas go ceann bliana?

**Deputy Dinny McGinley:** Maidir leis an chostas, cosnaíonn seirbhís farantóireachta páisinéirí chuig Inis Meáin agus Inis Oírr ar a lú €800,000 in aghaidh na bliana, cosnaíonn an tseirbhís lastais chuig na trí oileán €735,234 in aghaidh na bliana, cosnaíonn seirbhís aeir chuig na trí oileán €1.61 milliún in aghaidh na bliana agus cosnaíonn an tseirbhís bainistíochta do na trí aeradróm €372,690 in aghaidh na bliana.

Bhí deireadh ag teacht leis an chonradh reatha don tseirbhís aeir agus do bhainistíocht na n-aerdróm ar an 31 Lúnasa i mbliana. Bhí an togra chun athnuachan a dhéanamh ar an seirbhís aeir san *Official Journal of the European Union* ar an 22 mí na Márta. Tá na doiciméid tairisceana curtha ar shuíomh Idirlíne *etenders.gov.ie* leis an dáta 27 mí na Bealtaine 2013. D'iarr muid síneadh bliana agus an rogha ann le haghaidh bliana ina dhiaidh sin don tseirbhís aeir. Idir an dá linn, déanfar scrúdú arís ar riachtanais na seirbhíse sin. Tá áthas orm go bhfuil seirbhísí den scoth ag na trí oileán - seirbhísí farantóireachta, lastais agus aeir. Tá seacht seirbhís aeir in aghaidh an lae, trí cinn go hInis Mór, dhá cheann go hInis Oírr agus dhá cheann go hInis Mheáin.

Maidir leis an fharantóireacht go hInis Mór, níor éirigh linn an conradh a shíniú mar níor chuir an duine a bhí á déanamh iarratas isteach. Mar sin, tá sé ag leanúint leis an seirbhís farantóireachta mar a bhí, ach is cinnte go bhfuil an costas níos airde - €15 in aghaidh turais fhille.

**Deputy Michael P. Kitt:** Tá seo ag cur isteach ar na hoileánaigh agus orthu a úsáideann an

bád mar, mar a dúirt an tAire Stáit féin, cosnaíonn an turas €15 don duine nuair nár chosnaigh sé €8 an duine. Tá méadú ar chostas an turais. Cén fáth nach bhfuil conradh sínithe don tseirbhís farantóireachta?

Níor thug an tAire Stáit freagra dom faoin aersheirbhís. Níl ann ach airgead do bhliain amháin. Cén fáth nach bhfuil buiséad ansin do na blianta atá amach romhainn?

**Deputy Dinny McGinley:** Is féidir liom a rá go bhfuil an t-airgead céanna ar fáil do sheirbhísí farantóireachta agus aeir chuig na hoileáin i mbliana agus mar a bhí anuraidh: €5.95 milliún. Tá na hiarratais curtha ar aghaidh anois chuig an Eoraip ag iarraidh leanúint ar aghaidh leis an tseirbhís aeir ar feadh bliana eile ó mhí Lúnasa seo chugainn agus rogha bliana eile ina dhiaidh sin. Ní fíor go bhfuil deireadh curtha leis an seirbhís. Tá na heitleáin ag eitilt agus mé ag caint.

Mar a dúirt mé faoin seirbhís go hInis Mór, níor síníodh conradh idir an Roinn agus an farantóir. Bhí méadú costais an-mhór i gceist agus is seirbhís í seo a bhfuil brabús ag baint leis agus atá inmharathana mar go bhfuil an oiread sin daoine ag taisteal. Tá an tseirbhís á cur ar fáil i rith an ama go rialta, gan deontas ón Roinn agus tá an táille níos airde, mar a dúirt an Teachta. Ní mór cuimhneamh, áfach, go bhfuil an táille anois chomh hard agus a bhí sé sa bhliain 2005.

### *5 o'clock* **Special Areas of Conservation Designation**

5. **Deputy Luke 'Ming' Flanagan** asked the Minister for Arts, Heritage and the Gaeltacht with regard to the cutting of turf on special area of conservation bogs, the number of SAC designated bogs that have now been resolved to the satisfaction of all stakeholders, including the turf cutters; and if he will make a statement on the matter. [19725/13]

**Deputy Jimmy Deenihan:** Last April, I secured the agreement of the European Commission for the development of a national raised bog special area of conservation management plan, in keeping with the recommendations of Mr. Justice Quirke. My Department has now engaged a team of specialists who are undertaking the necessary scientific work to underpin the national plan and to inform the future restoration and management of each of the SACs. This work is being overseen by an independent steering group with input from the Peatlands Council. The detailed exploration of relocation sites is a key element in progressing the national plan.

In collaboration with the Peatlands Council and with the assistance of Bord na Móna, my Department is actively engaging with turf-cutting communities to consider how relocation can be progressed. The aim of my Department is to facilitate, as far as possible, those qualifying cutters who wish to continue to cut turf by putting in place relocation sites for as many cutters as possible in the shortest possible time. Given the complexities of the process it can take time to resolve all issues to finality even as new sites come on stream. The provision of financial payments or deliveries of turf is available to those awaiting relocation. My officials will continue to work with local groups on these issues within the principles of the relocation scheme.

Arrangements for the relocation of turf cutters to non-designated bogs have been made for groups from Clara bog in County Offaly and from Carrownagappul bog and Curraghlehannagh bog in County Galway. My Department also envisages that qualifying turf cutters from Ballynafagh bog will be able to commence cutting in the relocation site during this turf cutting season provided that final agreement is reached with relevant cutters.

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Of the remaining 49 raised bog SACs, potential relocation sites have been identified for a further 32 bogs and work is ongoing on identifying and investigating sites. Relocation is unlikely to be required or is likely to be small scale for another 16 raised bog special areas of conservation.

I am determined that, in collaboration with the Peatlands Council and local turf-cutting communities, substantial progress will be made on the plan over the coming months.

*Additional information not given on the floor of the House*

My Department has stepped up contact with turf-cutting groups to seek long-term solutions to the issues for their particular bogs, in compliance with EU and national law. I hope the plan can be completed by November, in time to submit an application to the European Commission under Article 6(4) of the habitats directive, if required, prior to the 2014 cutting season.

However, the engagement and agreement of turf-cutting communities to its proposed approaches will be essential to meeting this timeline, and to unlocking the potential flexibility it offers. The clear majority of domestic turf-cutters on these sites are engaging with my Department. The door is still open for the Turf Cutters and Contractors Association to engage in this process with me and with other stakeholders to address the needs of turf-cutters and other interested parties.

**Deputy Luke ‘Ming’ Flanagan:** I thank the Minister for his reply. My question was to find out the number of SAC-designated bogs that have now been resolved to the satisfaction of stakeholders, including turf-cutters. The answer is zero. Seventeen years later, none of this has been resolved.

I refer to a press release on Deputy Paul Connaughton’s website last February which stated, “Mountbellew bog relocation can be replicated”. I suggest the Minister does not replicate what happened there because he will never get it resolved. He cannot expect people to move out of their land and to move to another area - to be good enough to do it - and then to be told that in 65 years time, which will eventually come, that they will have to leave that place and they will have no more rights. I said it here before and I will repeat it. If anyone came to a person in Dublin or in any other county and told them, “We meant to tell you a few years ago that you were going to have to move out of your house. We forgot and we never bothered to tell you. However, now you have to move out and you have no choice, otherwise you will be a criminal. By the way, you will be run out of the new house in 65 years time as well.” That is not the way to solve this problem.

A plan and proposals were voted through this House. Everyone agreed with them. The Minister will say the Government went along with them but that has not happened. I am beginning to wonder whether it is the strategy to drive every single turf-cutter in this country through the courts and to sit them beside people who have robbed their neighbours’ houses and others who have beaten up old people, and to drag them through that system. Is that the way the Minister plans to resolve it? It is a bit strange when my ten year old daughter knew that the Minister’s neighbours in Kerry were being dragged through the courts before he did. How does the Minister plan to resolve this issue? His method is not working. There is one thing for sure; we will be vindicating our rights again this year. It is my understanding that turf has already been cut on one of these bogs that the Minister keeps trumpeting as a success.

**Deputy Jimmy Deenihan:** This is a legal matter governed by European and Irish law. It

is obvious Deputy Flanagan has no respect for that law; otherwise, he would not be promoting that people break that law. More has been achieved in the past two years than was achieved in the previous 17 years and to which the Deputy referred. We must do what the European Commission and the European Union has told us to do otherwise we face being fined. Ireland will also suffer reputational damage and face a fine of €25,000 a day, amounting to €9 million every year. We accepted this law and it was transposed into Irish law. Deputy Flanagan wants to break that law. It is not acceptable that he is encouraging people to break that law. It is now in the hands of the Garda Síochána and the Director of Public Prosecutions. It is out of our hands. People will be prosecuted. That is the way the law operates in this country. Deputy Flanagan wants more people to break that law so that they, in turn, will be prosecuted. This is a complicated process. Progress has been made on four bogs.

Last year, this House agreed a motion. I went to the Commission with that proposal and it was accepted. We have appointed RPS consultants at immense cost to the State. I appeal to everyone concerned. It is obvious that Deputy Flanagan has no intention of co-operating with these people and to give this process a chance. That is all I ask everyone to do.

**Acting Chairman (Deputy Charlie McConalogue):** Deputy Flanagan has 20 seconds because we are over time on this question.

**Deputy Luke ‘Ming’ Flanagan:** I am not advising anyone to break the law. What I am advising people to do is to vindicate their rights. There is no need for me to encourage the Minister’s neighbours to vindicate their rights. Regardless of whether I went down to support them because their local Deputies had abandoned them, bar Deputy Tom Fleming and Deputy Michael Healy-Rae, they are going to vindicate their rights in any case. I remember the Minister’s slogan in that election, “The People’s Champion”. People’s champions do not jail their own people for keeping their houses warm.

**Acting Chairman (Deputy Charlie McConalogue):** I call the Minister for a very brief reply.

**Deputy Luke ‘Ming’ Flanagan:** I thought there was only 20 seconds of time left.

**Acting Chairman (Deputy Charlie McConalogue):** Order, please.

**Deputy Jimmy Deenihan:** Thanks to people like Deputy Feighan, Senator Kelly and others in Roscommon there has been a significant take-up of the compensation scheme in Roscommon.

**Deputy Luke ‘Ming’ Flanagan:** One man lives in Australia. How can he cut turf?

**Deputy Jimmy Deenihan:** More than €1.1 million has been paid to date in the Deputy’s constituency. A total of 759 people have co-operated with the scheme.

**Deputy Luke ‘Ming’ Flanagan:** He has €1,500 to buy fuel in Canberra.

**Acting Chairman (Deputy Charlie McConalogue):** I thank the Minister and also Deputy Flanagan.

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## Other Questions

### Arts Funding

6. **Deputy Dara Calleary** asked the Minister for Arts, Heritage and the Gaeltacht his plans for the future of the percentage for arts scheme; and if he will make a statement on the matter. [19251/13]

**Deputy Jimmy Deenihan:** As the Deputy will be aware, a Government decision of 1997 approved the inclusion in the budgets for all Exchequer-funded capital construction projects of up to 1% as funding for an art project, subject to an overall cap of €64,000. The current guidelines on the per cent for art scheme were drawn up in 2004 to set out how project managers are to operate the scheme and to provide a common national approach to its implementation. My Department has responsibility for the promotion of the per cent for art scheme but does not provide funding or a budget for it.

The scheme does not operate on the basis of there being a specific public art fund from which moneys are drawn down to undertake or to commission works of an artistic nature. Rather, under the terms of the scheme, such works are factored into and funded from the budgets of the capital projects in question by the relevant Department or public body undertaking the project. It is a matter for each project promoter or commissioning body to maintain details of such expenditure.

When the per cent for art scheme was launched it was accompanied by guidelines to assist with its implementation. It is now well-known and embedded in all public infrastructure works. The public has become familiar with the works of art on our roads, but there are also art works resulting from the scheme in place in schools, hospitals and arts and culture buildings. Public art is not confined to sculptures; it has also resulted in performances, new writings and compositions. There is no doubt that the visual impact of this scheme has been overwhelmingly positive. I consider that the scheme should continue.

**Deputy Seán Ó Fearghail:** I thank the Minister for his encouragement for the scheme. I wish to avail of this opportunity to ask the Minister in these difficult times to request his Department to engage more actively with other Departments to ensure that this scheme is taken up. While the Minister is correct to mention art works by our roads and in schools, it has become a feature of life recently that the NRA and local authorities supervising water and sewerage works and schools development projects do not always ensure the percent-for-art scheme has been used. In some cases, developers of the initiatives in question were not even conscious that the percent-for-art scheme was still available.

The scheme encourages collaboration between artists and local communities. Public art must be developed and created with local ownership in mind. It is only by the Minister's Department ensuring that sponsoring Departments are active in promoting the scheme as an ideal that maximum use will be made of it.

**Deputy Jimmy Deenihan:** As the Deputy acknowledged, my responsibility is for the capital works carried out by my own Department. I will ask my Department's Secretary General to write to other Departments to ensure that they operate the scheme as they are obliged to do. Irrespective of the Department involved, it is obliged in respect of its capital projects to put aside

1% of the total cost of a project to provide for a painting, sculpture or performance.

**Deputy Seán Ó Fearghail:** I welcome the Minister's positive response. Does he have any plans to review the 2004 guidelines, which were the last such guidelines on public art projects issued to sponsoring bodies?

**Deputy Jimmy Deenihan:** Nobody has requested that to date. Now that the Deputy has mentioned it, I will raise the matter also. Generally speaking, the guidelines have operated successfully. As a result, we have seen a proliferation of art nationally, some of which one might be impressed with while questioning others. A great many artists have benefited considerably from the percent-for-art scheme. Artists are going through a very difficult period currently and a commission represents two to three years' worth of wages for many. The scheme is very important to artists and they value it highly. I will take both Deputy Ó Fearghail's requests on board.

### **Merger of Cultural Institutions**

7. **Deputy John Browne** asked the Minister for Arts, Heritage and the Gaeltacht the progress he has made in achieving shared services and board structures between the National Library and National Museum; and if he will make a statement on the matter. [19247/13]

**Deputy Jimmy Deenihan:** Engagement with the national cultural institutions on the reform agenda is ongoing and intensive. Work is ongoing bilaterally with the boards of directors of the National Library and the National Museum and regular meetings of my Department's reform committee have taken place to further the implementation of the Government's reform plan. I intend to seek Government approval in the coming weeks for draft heads of a Bill to give effect to the reform measures in respect of the boards which is being undertaken by my Department.

As part of a range of reforms agreed by Government under the public service reform plan, it was decided that the existing National Archives of Ireland governance model would be applied to the National Library of Ireland and the National Museum of Ireland. The proposed advisory council will operate *pro bono* in place of the existing boards. Board membership will be reduced significantly. The advisory council will have no role in relation to the day-to-day management of the bodies and will specialise in fundraising, fostering philanthropic relations and donations, and advice to the Minister on library and museum policy matters. The day-to-day management of the institutions will be a matter for their respective independent statutory directors. The proposed model is similar to that already in place at the National Archives, the success of which has been widely recognised in the House and further afield.

I have previously advised the House of the shared-services model that will be deployed across the three institutions through my Department. The model will include corporate support services and, by formal inter-institutional agreement, operational services. Regular meetings have been taking place between my Department and senior management in the National Library, National Museum and National Archives to implement a human resources shared support services function. This function will be carried out by the human resources unit of my Department and will cover all human resources matters arising in the relevant bodies. Progress has been made on identifying the work that will be undertaken by the unit and it is envisaged that the shared service will be in place shortly. The intention is that shared human resources support services will be implemented on an administrative basis pending enactment of enabling

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legislation. The institutions are also developing the requisite agreements in relation to shared operational services.

*Additional information not given on the floor of the House*

The Deputy will be aware that overall savings of €20 million in enhanced service efficiencies and value-for-money were targeted in the public service reform plan. In that context, it is expected that savings in the region of approximately €1 million will be made initially across the institutions involved in the reform programme and funded from my Department's Vote. Further savings will be identified as the various cost saving measures are implemented. A further benefit from the rationalisation of support and operational services will be a less crowded administrative landscape, resulting in greater democratic accountability, less duplication of effort and clearer lines of responsibility for the citizen. It will also allow the institutions to focus on their core objectives of service to the public.

**Deputy Seán Ó Feargháil:** I welcome the fact that the legislation that is required in this context is pending. It is good news. Once again, I emphasise Fianna Fáil's party political view that the arms-length principle has been abandoned by the Minister and express our considerable regret at that. As the Minister has heard these points before, I move to ask him whether a cost-benefit analysis been completed or even undertaken by the Department. When will the new director of the National Museum who will oversee the implementation of the significant changes outlined be appointed?

**Deputy Jimmy Deenihan:** The arms-length principle will be enshrined in the legislation I bring forward.

**Deputy Seán Ó Feargháil:** That is not possible.

**Deputy Jimmy Deenihan:** The Deputy will have an opportunity to comment on the Bill. The curatorial independence of the directors will be enshrined and, in fact, strengthened in the forthcoming legislation. Regarding the cost-benefit analysis, the intention is to save approximately €20 million in the reform plan overall. We hope that over time there will be a considerable saving through shared human resources, IT and security services etc. There will definitely be a savings factor.

The appointment process for a director of the National Museum is ongoing. I understand that a large number of applicants have applied and the interview board has selected a number of candidates of very high calibre to interview, which will happen immediately. It is a matter for the board, but I hope an appointment will be made very shortly.

**Deputy Kevin Humphreys:** It is generally recognised that the advisory council of the National Archives is working extremely well. Can the Minister indicate the timeframe in which an advisory council will be put in place for the National Museum and National Library? While the reforms the Minister has introduced are excellent, we need a structure and a timeframe.

**Deputy Jimmy Deenihan:** The legislation to provide for the proposed reforms is at a very advanced stage and we hope it can be introduced, if not before the summer, in the autumn. I have seen the proposals and hope to take them to Government shortly to obtain approval to draft the legislation.

**Deputy Seán Ó Feargháil:** Notwithstanding what the Minister has said, am I to understand

that no cost-benefit analysis at all has been carried out?

**Deputy Jimmy Deenihan:** I mentioned already that there would be an immediate saving of €240,000 in directors' and board members' fees. It is a considerable sum when one considers the small budgets within which the bodies have to operate.

### **Cultural Policy**

8. **Deputy Gerry Adams** asked the Minister for Arts, Heritage and the Gaeltacht if he has any plans to appoint a person with the specific remit to develop Dublin city as an integrated cultural hub; and if he will make a statement on the matter. [19372/13]

**Deputy Jimmy Deenihan:** The question relates to a matter for which I have no statutory remit. Urban planning and the appointment referred to by the Deputy is a matter for the appropriate local authority, which in this instance is Dublin City Council.

However, I note that I provide funding to Dublin City Council towards part of the costs of the imaginative UNESCO Dublin city of literature programme. In July 2010, Dublin became the world's fourth UNESCO city of literature and part of the UNESCO creative cities network, which was launched in 2004 and includes Edinburgh, Iowa city and Melbourne. The award is a permanent designation and its realisation has been led by the city library service of Dublin City Council. Since then, Dublin City Council, through the city library service, has led and directed the work of the Dublin UNESCO City of Literature office supported by an expanded management group and a representative steering group. Funding has been provided directly and in kind by Dublin City Council, by my Department, by Fáilte Ireland and Foras na Gaeilge. I am providing €50,000 in funding to Dublin City Council for this year's UNESCO activities.

**Deputy Sandra McLellan:** I ask this question in the context of the recent announcement by Dublin City Council of plans for a new cultural quarter around Parnell Square. I welcome the initiative but I am concerned that it does not go far enough. Dublin has a number of things going for it. It is the capital city and it houses all the major national cultural institutions of theatre, music, museums and galleries. The city has a unique culture and heritage in its built environment and in the arts. However, there are two entirely separate streams - the national one running through the city and the local one specifically tailored to the city. Does the Minister accept there is a disjunction between the two identities and that the divisions are reproduced in the lack of joined up thinking to see the bigger picture? Does the Minister accept this has a negative affect on development, in terms of tourism and in terms of the city's overall urban aesthetic? As a result, the city's huge potential as a cultural artistic centre remains untapped.

**Deputy Jimmy Deenihan:** I agree Dublin has a huge amount to offer. It is ranked among the most exciting cities in the world. I also agree it has further potential. My involvement is with the national cultural institutions, such as the museums, libraries, the Chester Beatty library, the Abbey Theatre and the other institutions. Despite the fact that we are challenged with funding the cultural institutions, including the concert hall, are performing very well. They are making the most of their resources.

The proposed development of Parnell Square is very much a Dublin City Council development project. Dublin City Council has a major role to play in the co-ordination of what is available. One of the great examples of the State and the corporation coming together was in

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Temple Bar. It was an outstanding success in the early 1990s. I have always advocated people working together. In this instance, Dublin City Council has a critical role to play.

**Deputy Kevin Humphreys:** As a former Dublin city councillor, I welcome the question tabled to the Minister. The development of Parnell Square is an outstanding proposal and will leave a fine legacy to the former city manager, Mr. John Tierney, to whom I pay tribute. Something that is very close to the Minister's heart, and a counterbalance to the Parnell Square proposal, is College Green and its connection to Trinity College. The Minister has done some great work in that respect. He mentioned a gateway and there could easily be a gateway to College Green through the bank. I ask the Minister to examine this point. It should not be a short-term proposal but one over ten or 15 years, where we can return the bank in College Green from the Bank of Ireland to the citizens. We could develop a strong cultural hub in the heart of the city connecting Temple Bar, College Green and Trinity College. I ask the Minister to re-energise himself in his effort. He will receive every support from me if we can press this home.

**Deputy Jimmy Deenihan:** The Cabinet is examining various proposals for 1916, including major landmark developments for the country. The issue of College Green is under consideration and I take the Deputy's points on board. I know Deputy Kevin Humphreys has a passionate commitment to this topic. I have discussed it with him over the past two years. Perhaps something will develop from our aspirations.

### **Irish Language**

9. **Deputy Mary Lou McDonald** asked the Minister for Arts, Heritage and the Gaeltacht if he will provide an update as to the progress that has been made in relation to the commitment in the 20 year strategy to provide a new definition for the Gaeltacht based on linguistic criteria. [19283/13]

**Deputy Dinny McGinley:** As the question was tabled in English, I will abide by the tradition of the House and reply in English if that is acceptable.

**Deputy Peadar Tóibín:** Is botún é, i ndáiríre. Ba cheart go mbeadh an cheist i nGaeilge. Níl a fhios agam cén fáth a bhfuil sí i mBéarla.

**Deputy Dinny McGinley:** Cibé is mian leis an Teachta. Tá an freagra anseo i mBéarla. B'fhéidir gur féidir linn na supplementaries a thógaint i nGaeilge.

**Deputy Michael P. Kitt:** Tá cur chuige dátheangach ag an Aire Stáit.

**Deputy Dinny McGinley:** With the recent enactment of the Gaeltacht Act 2012, the Gaeltacht is being given a new definition based on language criteria as opposed to geographical areas, as has been the case. Draft orders and regulations associated with the language planning criteria prescribed in section 12 of the Act have been prepared and circulated to the relevant Departments, in accordance with the legal requirement to do so, with a view to completing this process by June 2013. The Act also gives a statutory basis to the language planning process in the Gaeltacht, under which language plans will be prepared at community level for specific language planning areas. This approach puts the communities at the heart of the language planning process since it gives them the opportunity to take ownership of their own plan in their own community.

**Deputy Peadar Tóibín:** Caithfidh mé a rá ar dtús gur fear deas é an tAire Stáit ar leibhéal pearsanta. Ceapaim go bhfuil fadhb ollmhór ann ar leibhéal na Roinne, áfach. Ní cheapaim go bhfuil smacht iontach ag an Aire Stáit ar an Roinn. B'fhéidir go bhfuil sé faoi smacht na Roinne. Is dóigh liom go bhfuil an Roinn ag tiomáint an rud seo. Tá an-eolas ag an Aire Stáit mar fhear Gaeltachta. Tá an-chuid taithí aige i dtaobh dul chun cinn na Gaeilge sa Ghaeltacht. Tá a fhios aige go bhfuil sé uafásach práinneach tacaíocht a thabhairt don Ghaeilge, do na bailte Gaeltachta agus do na limistéir pleanála teanga. Bhrúigh sé Bille na Gaeltachta 2012 tríd an Oireachtas an bhliain seo caite in ainneoin na míshástachta i measc gluaiseacht na Gaeilge. Bhí gach páirtí ar an taobh seo in aghaidh na reachtaíochta sin. Beagnach bliain níos déanaí, tá ionstraim reachtúla fós le síniú ag an Aire Stáit. Tá sé dochreidte. Cén fáth nach bhfuil na hionstraim tábhachtacha seo sínithe ag an Aire Stáit go fóill?

**Deputy Dinny McGinley:** Sílim go bhfuil an Teachta thar a bheith diúltach. Tá dul chun cinn suntasach déanta. Nuair a tógadh isteach an reachtaíocht a luaigh an Teachta anuraidh, ba é an chéad Acht na Gaeltachta le breis agus 50 bliain. Tá na hionstraim reachtúla dáilithe ar na Ranna eile. Beidh cinneadh déanta gan mhoill - an mhí seo chugainn nó an mhí ina dhiaidh - ar conas a rachfaidh an tÚdarás agus an Roinn ar aghaidh leis na ceantair pleanála teanga. Agus é sin ráite, tá go leor teagmhála cheana féin. Tá go leor oibre ar siúl ar an talamh ag an údarás, fiú amháin gan na hionstraimí glactha leo, chun dul i dteagmháil leis na heagrais, na chumainn agus na chomarchumainn sna ceantair Gaeltachta. Tá go leor den réamhobair déanta. Tá an-chuid eolais sa Roinn. Is fear Gaeltachta mé féin. Caithfidh mé a rá go bhfuil an-chomhoibriú idir mé féin agus oifigigh na Roinne. Is muidne atá ag tabhairt tiomantas do seo. Is muidne a thóg isteach an tAcht. Tá polasaithe an Rialtais agus polasaithe an Aire Stáit - go mbeadh an tÚdarás ann, go dtógfar Acht na Gaeltachta isteach agus go ndéanfar athbhreithniú ar Acht na dTeangacha Oifigiúla 2003 - á chur i bhfeidhm ag an Roinn. Is muidne atá á dhéanamh.

**Deputy Peadar Tóibín:** An dtig liom ceist eile a chur?

**Acting Chairman (Deputy Charlie McConalogue):** Yes, after Deputy Kitt.

**Deputy Michael P. Kitt:** Aidhm amháin sa straitéis ná go mbeidh níos mó daoine ag labhairt na Gaeilge, suas go 250,000. Cad iad na pleananna ag an Aire Stáit chun é sin a bhaint amach?

**Deputy Dinny McGinley:** Sin an rud atá i gceist, sin mar a bheidh cúrsaí nuair a bheidh an 20 bliain thart. Tugaim aitheantas don obair atá ar siúl ag Foras na Gaeilge ag brú na teanga ar aghaidh taobh amuigh den Ghaeltacht. Nuair a bhím ag taisteal ar fud na tíre, tugann sé misneach, dóchas agus uchtach nuair a fheicim an meid atá ar siúl ag na pobail ar fud na tíre sa Ghaeltacht agus sa Ghalltacht ag cur na teanga chun cinn. Oíche Shathairn seo caite, bhí mé i gCluain Tarbh agus bhí 500 duine ó na Gaeltachtaí agus ón tír ar fad, agus iad ag ceiliúradh an obair atá á déanamh acu ag cur ar aghaidh labhairt na teanga ar fud na tíre.

**Deputy Peadar Tóibín:** Tá an tAire Stáit go maith ag labhairt faoi rudaí ginearálta ach nuair a chuirim ceist a bhaineann le sonraí, ní bhíonn sé sásta freagra a thabhairt. Cén fáth go bhfuil moill ann síniú a chur ar na hionstraimí reachtúla? Cad iad na hionstraimí reachtúla atá fágtha le síniú? Cad iad na critéir do bhailte Gaeltachta agus líonraí Gaeilge agus cad é an slat tomhais a bheidh ann le dul chun cinn? Impím ar an Aire Stáit greim a bhreith ar an Roinn.

**Deputy Dinny McGinley:** Is féidir liom cur in iúl don Teachta ach ní thabharfaidh sé am dom chun freagra a thabhairt. Is féidir liom na critéir atá anseo agam a chur in iúl don Teachta.

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Síneofar iad taobh istigh d'achar an-gherr ar fad. Tá siad go léir anseo agus cuirfimid in iúl don Teachta iad. Níl an t-am agam iad a léamh amach ach tabharfaidh mé dó iad. Tá na critéir ansin, agus tá an obair déanta, tá siad réidh le síniú agus síneofar iad gan mhoill. Rachaimid ar aghaidh ansin. Ní hionann sin agus a rá nach bhfuilimid ag dul ar aghaidh.

Maidir leis an straitéis 20 bliain don Ghaeilge, d'fhéadfainna Tráth na gCeist a chaitheamh ar gach ceann acu - oideachas, an Ghaeltacht, meáin agus teicneolaíocht, foclóirí agus an saol eacnamaíoch, an dul chun cinn atá déanta i ngach ceann acu siúd le bliain nó dhó anuas - dá mbeadh am agam. Beidh deis agam é an dhéanamh am éigin.

## EU Funding

10. **Deputy Bernard J. Durkan** asked the Minister for Arts, Heritage and the Gaeltacht the extent to which he has encouraged and availed of European grant aid for the promotion of all forms of the arts here with particular reference to events or festivals throughout the country; the extent to which such funding has been available in the past; and if he will make a statement on the matter. [19240/13]

129. **Deputy Bernard J. Durkan** asked the Minister for Arts, Heritage and the Gaeltacht the extent to which local community-based festivals have benefitted from EU grant aid directly or indirectly with particular reference to the specific grant aid for festivals; and if he will make a statement on the matter. [19702/13]

**(Deputy Jimmy Deenihan):** I propose to take Questions Nos. 10 and 129 together.

There are two programmes operated by the European Union in the areas for which I have responsibility. These are the media programme and the culture programme and both run from 2007 to 2013, inclusive.

The media programme is the EU support programme for the European audio-visual industry and details in this regard, including in regard to the operation of the programme and the funding provided, are available [www.mediadeskireland.ie](http://www.mediadeskireland.ie). The culture programme is the EU support programme for organisations working in the field of culture. Assistance and information is available to arts and culture practitioners who wish to apply for grants under the culture programme from the European Cultural Contact Point Ireland. The CCP provides information, advice and technical assistance to anyone in Ireland interested in applying to the European Commission for such funding. It also provides additional information and assistance which might help to establish links and partnerships with colleagues in Europe and beyond. All details are available from a dedicated website at [www.ccp.ie](http://www.ccp.ie).

The way the programmes operate is that periodically there are calls for proposals from the European Commission seeking applications for support under the two programmes. The applications are then assessed by an independent body, the Executive Agency for Education, Audiovisual and Culture. Decisions on what support is provided are based on the merits of the applications. There is no quota for each country or no amount allocated to each country. There is further comprehensive information available on all projects which received funding across the Union at the website [http://ec.europa.eu/culture/index\\_en.htm](http://ec.europa.eu/culture/index_en.htm).

Discussions are currently underway between the member states, the European Commission

and the European Parliament on a new framework programme for the cultural and creative sectors. This will run from 2014 to 2020 and be called the creative Europe programme. It includes a proposal to amalgamate the current culture and media programmes under a common framework and create an entirely new facility to improve access to finance. Once the new programme is finalised, details of how to seek funding from the programme will be made available through appropriate information outlets.

**Acting Chairman (Deputy Charlie McConalogue):** No one wishes to respond, so we will move on to Question No. 11.

### **Arts Centres**

11. **Deputy Willie O’Dea** asked the Minister for Arts, Heritage and the Gaeltacht the steps he has taken to address financial planning and oversight difficulties in Arts centres across the country; and if he will make a statement on the matter. [19265/13]

**Deputy Jimmy Deenihan:** My Department has no role in the management or the operation of any art centre or in providing current funding to arts centres. Many such centres are owned by, and some are managed by, the relevant local authority. Most receive some or all of their operational funding from the local authorities. The Arts Council also has a role in that it provides programming funding in respect of many arts centres.

As the Deputy will be aware, the Arts Council is the principal agency through which State funding is channelled to the arts. Government policy on the arts is set out in the programme for Government. While the Arts Council receives its overall funding allocation from my Department, decisions on the expenditure of those funds are a matter for the Arts Council itself. Under the Arts Act 2003, the Arts Council is statutorily independent in its day-to-day operations and I am precluded by law from intervening in the council’s decisions on funding. The allocation to the Arts Council in 2013 is €60.7 million.

In any case, arts centres are independent organisations and matters to which the Deputy refers, such as financial planning and-or oversight difficulties, are first and foremost a matter for the board of the relevant arts centre.

**Deputy Seán Ó Feargháil:** To a certain extent, I understand the Minister’s response but he responded to me last month on the issue of the Belltable Arts Centre in Limerick. We all recognised the very valuable contribution that centre had made and all of us expressed concern that for the sake of €300,000, that it went into liquidation. I put this question to the Minister in the context of the overarching role the Minister for Arts, Heritage and the Gaeltacht has in this regard. What sort of communication has taken place in the last month or so between the Minister, his Department, the Arts Council and the local authorities? What has been done by the Department, if anything, to ensure the financial model being followed by arts centres, which have really brought the visual arts and the arts in their broadest sense to people throughout the country, does not lead them into the predicament the Belltable Arts Centre was led?

**Deputy Jimmy Deenihan:** As I pointed out to the Deputy, responsibility for most arts centres lies with the local authorities. This evening I will address the local authorities’ arts officers and I might mention the challenges they face in regard to the running of arts centres. The Arts Council would have direct contact with the various arts centres because it provides the funding.

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As the Deputy stressed, the arms length approach certainly prevails when it comes to the Arts Council.

I am prohibited by law from advising arts centres on what to do. If some of the arts centres are funded by my Department through the ACCESS scheme or other schemes, then we would have some lean on those centres. We would have regular contact with centres to which we have provided funding because we have an obligation to ensure the taxpayers' investment is protected as much as possible. The Deputy makes many good proposals at Question Time. I take his point because I am connected with a number of arts centres and know the challenges they face. There could be an overall focus on how arts centres structure their businesses in order to survive.

**Deputy Seán Ó Fearghail:** We will have to agree to disagree on the issue of operating at arm's length. That said, I am not expecting the Minister to micro-manage arts centres, as he knows, but it is reasonable for the public to expect the Minister responsible for the arts to have a discussion with the local authorities and the Arts Council to ensure there are proper models of financial management in place. The taxpayer has invested substantially in arts centres. We depend on them to bring the arts alive for so many citizens. They play a vital role in that regard. I encourage the Minister, while adopting an arm's length approach, to stimulate both the Arts Council and local authorities to fulfil the role they should be playing in this regard.

**Deputy Jimmy Deenihan:** I will certainly convey the Deputy's suggestions to the Arts Council and the local authorities. A good example of where the Department really got involved in the past two years was in respect of the Light House Cinema, which was closed. It is now up and running again and doing very well. I am delighted to say I was there on a few occasions recently, including for the opening of a film festival and to see a film made in County Kerry on rural isolation. I was delighted to see the level of activity in the cinema. This is an example of where there was intervention. Perhaps this type of intervention might be useful in other cases. I will certainly take the Deputy's point on board. Perhaps there is merit in staff from the Arts Council sitting around a table with us and representatives of the local authorities. This occurred recently with regard to three projects that were being challenged in certain ways. We could work in this manner on a more extensive basis. I thank the Deputy for his suggestion.

### **Ministerial Travel**

12. **Deputy Jerry Buttimer** asked the Minister for Arts, Heritage and the Gaeltacht if he will report on his visit to Canada; and if he will make a statement on the matter. [19158/13]

**(Deputy Jimmy Deenihan):** A total of 19 Ministers visited 21 countries across North America, Europe, the Middle East and Asia for a series of trade, investment and tourism focused programmes during March as part of the Government's St. Patrick's Day programme, Promote Ireland. I travelled to Toronto in Canada in March as part of that programme. The focus of my visit was on enhancing the cultural and trade links between Ireland and Canada. My engagements included an Ireland-Canada Chamber of Commerce business event with Enterprise Ireland, a promotional event with the Irish Dairy Board, several meetings with Irish centres in Canada focusing on Irish heritage, Irish community projects and the Irish language, and an appearance on Canadian national television. My visit also encompassed the St. Patrick's Day parade and a visit to the Irish Canadian Club of Hamilton. I also inaugurated the greening of Niagara Falls, where I was accompanied by Mr. Niall Gibbons, CEO of Tourism Ireland. In

addition, I had the opportunity to visit the Irish Park, Éireann Quay, and mass graves of victims of the Great Irish Famine.

The value of exports from Ireland to Canada increased by 24% in 2012. The Government is committed to promoting further growth in trade and cultural links between Ireland and Canada, as this is clearly of immense importance to the economy.

### **Irish Language**

13. **Deputy Aengus Ó Snodaigh** asked the Minister for Arts, Heritage and the Gaeltacht if he will provide an update as to the progress that has been made as regards the commitment in the 20 years strategy to provide targeted language learning opportunities to be put in place to assist families where only one parent speaks Irish; if he will outline the nature of such targeted language opportunities; and the way these opportunities will be further developed. [19286/13]

**(Deputy Dinny McGinley):** My Department's family language support programme - clár tacaíochta teaghlaigh - has as its key objective the further strengthening of Irish as a household and community language in the Gaeltacht in accordance with the 20 year strategy. It seeks to achieve this objective by way of a range of practical measures which will better support Gaeltacht families who are raising their children through Irish or wish to raise their children through the medium of Irish. Under the family language support programme, the Department has undertaken 12 specific measures to support such Gaeltacht families. These measures focus primarily on the following groups: Gaeltacht families who are expecting a child and wish to raise the child through Irish, in addition to Gaeltacht families who are raising pre-school children through Irish or wish to raise their pre-school children through Irish; Gaeltacht families who are raising primary school children through Irish, in addition to Gaeltacht families who wish to raise their primary school children through Irish; Gaeltacht teenagers; and certain communities outside the Gaeltacht, namely, parents raising their children through Irish or wish to raise their children through Irish.

*Additional information not given on the floor of the House.*

In addition to fostering new initiatives, the family support programme also encompasses improvements to existing measures and schemes administered by my Department, the systematic implementation of which will further underpin the programme and its effectiveness.

I should also highlight the role of other bodies and organisations in these matters. Foras na Gaeilge is part of the North-South Implementation Body An Foras Teanga and has the principal responsibility of promoting the Irish language in every aspect of everyday life throughout the island of Ireland.

Údarás na Gaeltachta provides financial assistance for organisations and co-operatives in Gaeltacht areas for the provision of Irish classes. These organisations provide an agreed schedule for Irish classes based on demand and the budget allocated to them. There are 34 language centres operating in various Gaeltacht areas and information on the classes can be sourced from these centres. A list of these organisations is available through the Údarás na Gaeltachta website at [www.udaras.ie](http://www.udaras.ie). Comhluadar supports households that use Irish or are trying to use Irish in the home. It provides a range of services for these households from advice to formal and social events. *Written Answers follow Adjournment.*

25 April 2013

The Dáil adjourned at 5.45 p.m. until 2 p.m. on Tuesday, 30 April 2013.